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STATE OF NEW HAMPSHIRE



Organizational Meeting

Wednesday, December 1, 1976

The Clerk called the Senate to order at 1 o'clock.

The Clerk called the Roll which showed all Senators present as follows: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Healy, Sanborn, Provost, Brown, Bossie, Fennelly, Downing, Preston and Foley.

At that time, on the first Wednesday in December, in the year of our Lord, one thousand nine hundred and seventy-six, being the day prescribed by the Constitution for the Legislature of New Hampshire to assemble at the Capitol in the City of Concord in said State, and His Excellency the Honorable Meldrim Thomson, Jr., Governor, and the Executive Council, having come into the Senate Chamber, took and subscribed the oaths of office and witnessed the signing of the oath by each individual Senator, and were duly qualified as Senators agreeably to the provisions of the Constitution, namely:

- District No. 1 Laurier Lamontagne
- District No. 2 Andrew W. Poulsen
- District No. 3 Stephen W. Smith
- District No. 4 Edith B. Gardner
- District No. 5 David Hammond Bradley
- District No. 6 Louis E. Bergeron
- District No. 7 Alf E. Jacobson
- District No. 8 James A. Saggiotes
- District No. 9 Robert B. Monier
- District No. 10 Clesson J. Blaisdell
- District No. 11 C. R. Trowbridge
- District No. 12 D. Alan Rock
- District No. 13 John H. McLaughlin
- District No. 14 Phyllis M. Keeney
- District No. 15 Mary Louise Hancock
- District No. 16 Walter F. Healy
- District No. 17 William E. Sanborn
- District No. 18 Paul E. Provost
- District No. 19 Ward B. Brown
- District No. 20 Robert F. Bossie
- District No. 21 Robert Fennelly
- District No. 22 Delbert F. Downing
- District No. 23 Robert F. Preston
- District No. 24 Eileen Foley

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

It is with hopeful and humbleness of spirit, that we are gathered here, Oh Lord, to organize our Senate for the coming Session of 1977-78.

May Special Blessings rest upon each of us, as we pray for wisdom and insight, that will keep us from any false choices of decisions, as we become evermore aware of the needs of the people, of our great State of New Hampshire.

Strengthen us with keen minds—compassionate hearts—and humility—so that Thy presence will be felt as we go forward together.

Hear our prayer, Oh Lord. Amen.

Pledge of Allegiance was led by Senator Lamontagne.

Senator Monier moved that Senator Sanborn be elected temporary presiding officer.

Seconded by Senator Poulsen.

Adopted.

The Clerk requested Senator Monier and Senator Bergeon to escort the temporary presiding officer to the rostrum.

The presiding officer asked for nominations for the office of President of the Senate.

Senator Brown nominated Senator Alf Jacobson for President of the Senate.

Sen. BROWN: I'd like to place in nomination the name of Alf E. Jacobson as President of the New Hampshire State Senate, who is now entering his fifth term as Senator from the 7th District. During my association with him over the past six years, I have found him to be hard working and conscientious. Regional School District and Selectman in his home town of New London. He has proven his leadership ability as head of the Department of Social Sciences at Colby-Sawyer College and was President of the Senate in the last session. His capability and fairness to all members of the Senate has not gone unnoticed. I'm honored at this time to place in nomination for President of the Senate, the name of Alf E. Jacobson.

Seconded by Senator Smith.

Sen. SMITH: It gives me pleasure to second the nomination of Senator Jacobson for President. He served with distinction last session and was fair and equitable to every member of the Senate.

Senator President nominated Senator Delbert Downing for President of the Senate.

Sen. PRESTON: Mr. President, I rise this afternoon to place in nomination for President of the Senate the name of a gentleman who has ably served the people of New Hampshire in the Senate for three terms, the Minority Leader of the Senate, Delbert F. Downing of District 22.

A very dedicated and hard-working member of this body, Senator Downing has served for two terms as Chairman of the Ways and Means and Administrative Affairs Committee and successfully sponsored bills to establish the sire stakes program and to improve property tax exemptions for elderly

home owners, as well as legislation which updated election laws, benefits for retired police, firemen and teachers, and, in the special session, a measure to improve the standards at Laconia State School.

He has demonstrated in this chamber during the past six years that he is one of the "voices of reason" in the Senate and I am very happy to nominate Senator Del Downing as our President.

Seconded by Senator Bossie.

Sen. BOSSIE: It gives me great pleasure to second the nomination of Delbert Downing of Salem, the Senator from the 22nd District for President of this Senate. I think there is no doubt in anyone's mind who has served in this Senate before that Senator Downing has the capabilities to serve all of us well. I think he's a fine, positive and progressive Senator, and I would urge my colleagues to vote for him for President of this Senate.

The following Senators voted for Senator Jacobson: L. Lamontagne, A. W. Poulsen, S. W. Smith, E. B. Gardner, D. H. Bradley, A. E. Jacobson, J. A. Saggiotes, R. B. Monier, C. R. Trowbridge, D. A. Rock, P. M. Keeney, W. E. Sanborn, P. E. Provost and W. B. Brown.

The following Senators voted for Senator Downing: L. E. Bergeron, C. J. Blaisdell, J. H. McLaughlin, M. L. Hancock, W. F. Healy, R. F. Bossie, R. Fennelly, D. F. Downing, R. F. Preston and E. Foley.

Fourteen Senators having voted for Senator Jacobson and ten Senators having voted for Senator Downing, the Chair declared Senator Jacobson to be the duly elected President of the Senate for the 1977 session.

Senator Downing moved the election be unanimous.

Adopted.

Senator Smith nominated Wilmont S. White for Clerk of the Senate.

Sen. SMITH: I move the nomination of Wilmont White, who has been Clerk of the Senate since 1969, and has done an excellent job with innovations which have made the operation of the Senate smoother.

Seconded by Senator Saggiotes.

Sen. SAGGIOTES: Mr. Chairman, it's my pleasure to second the nomination of Wilmont White to be the Senate Clerk for the ensuing session.

Sen. DOWNING: Mr. President, I wish to add a second to the nomination of Wilmont White as Clerk of the Senate. He has been an outstanding individual in that capacity, been fair and impartial and treated everybody alike, and with equal efficiency. I urge the support of the body.

The Chair declared that Wilmont S. White is elected by acclamation.

Sen. JACOBSON: Mr. President, I move that the Senate President be allowed to appoint the Assistant Clerk, with a later confirmation of the Senate. In the last session, as all of you know, Carole Milliken was our Assistant Clerk, and she did an excellent job, and it is questionable or not whether she can return. There have been those that have wanted the position, largely those who are, what I call "political persons". I do not want this office to be that sort, and I do have a person in mind, if Carole Milliken does not ultimately become the Assistant Clerk, who would again fulfill the role in the same way as Mrs. Milliken did. So, I hope the Senate will go along with the motion I offered.

Motion adopted.

Senator Bradley nominated Milo Cheney for Sergeant-At-Arms.

Sen. BRADLEY: Mr. Chairman, I would like to place in nomination the name of Milo Cheney of Wentworth. Milo needs no introduction to most of the members of the Senate. He was our Sgt.-At-Arms last year, and has been previous to that for one term. I think all here know that he is competent and diligent and good to have around. I will state, on the record, that I have had a discussion with Milo over one concern that has been voiced to me by some Senators, and that is the question of whether or not a person in his position should do any type of lobbying whatsoever among the Senators. I feel I have an understanding with Milo on this point, that any form of lobbying is outside

the scope of his functions as Sergeant-At-Arms. Other than that one comment, I have never had an adverse comment about his competence and diligence, and I wholeheartedly support his nomination.

Seconded by Senator Poulsen.

Sen. POULSEN: It's my pleasure to second the nomination of Milo Cheney. I think over the years he's made things a little easier for us. I heartedly endorse him for the job.

Sen. LAMONTAGNE: Mr. President, I would like to rise as Dean of the Senate, and I'd like to second the motion at this time. The nominee is an excellent person, and I don't feel there should be any restrictions. I don't see where he's ever made any abuse of lobbying before any of these Senators here.

The Chair declared that Milo Cheney is elected by acclamation.

Senator Bradley nominated Willard Gowen for Doorkeeper.

Sen. BRADLEY: I would like to place in nomination the name of Willard Gowen of Wentworth. Again, Willard has been our Doorkeeper for the last session. He's from my District and everyone that was here last time knows Willard, and knows him to be diligent and competent at his job as Doorkeeper. I have had a similar conversation with Willard about the question of lobbying, and I feel I have an understanding with him also, that lobbying is beyond the scope of the job of Doorkeeper, and that he would not engage in it. I have also had expression from some Senators, and I don't think this in any way is criticism of Willard Gowne, but I want to inform the Senate of it, that there has been some question about greater control, and greater limits placed on the flow of people coming in and out of the Senate during the session. I mentioned this to Willard, and he has no qualms with that and is prepared to carry out the Senate's will on it. And, I'm sure that he's as good as anyone to carry out that point.

Seconded by Senator Poulsen.

Sen. POULSEN: I'd like to second that nomination. I am particularly pleased to see that there is no rancor in Sen. Bradley for a hard fought election, in the primary.

The Chair declared that Willard Gowen is elected by acclamation.

Sen. JACOBSON: I am pleased to accept again the high office of President of the Senate. I am most grateful to the Republican members of the Senate for their display of unity achieved by concession and conciliation on all sides. I am also pleased that this unity was achieved in the interest of public purpose without violating personal integrity. I am also grateful for the Democratic members who gave me support in the interest of achieving a clear decision. This action, of course, has many precedents, the chief of which, followed the Presidential election of 1800. At that time, Thomas Jefferson and Aaron Burr were tied in votes for President and Alexander Hamilton, who was of the opposite side to Jefferson, threw his support to Mr. Jefferson, so that the machinery of government could continue. In the inaugural address that followed, President Jefferson uttered a now famous statement: "We are all Federalists, we are all Republicans." When I first came to the Senate in 1969, the late Senator "Pete" Gauthier told me: "In November we were Democrat and Republican; today we are just senators." It is in this same kind of spirit that I would like to proceed with the 1977 Legislative Session.

What I have just said does not in any way mean that I am not political. After all, no one has yet suggested evidence which would set aside the Aristotelian dictum that man is a political animal. This last campaign in New Hampshire seemed more political than any of the more recent ones. In my own campaign I was honored, dazzled, and even a little frightened when the Democrats rolled out two United States Senators against me. With a little luck, I survived. Politics is always an interesting game, and the question always arises in the aftermath, who is to get what. I recognize that in the smallness of the Senate, the positions available are by their very nature limited. There are those who would argue that to the victors belong all the spoils. The inventor of the American spoils System, President Andrew Jackson, had about 10,000

positions to fill. I recently heard that President-Elect Carter will have approximately the same number of positions to fill. Rod Paul, whose mystifying proclivities always intrigue me, recently wrote of all the plums available to Democrats in this state. With this in mind, I spoke to the Democrat Party Chairman, Larry Radway, yesterday, and asked him if it would be possible for me to suggest Democrats for these political appointments. My thought was if there were disappointments among Democrat members of the Senate I could at least assuage them through this process. Unfortunately, if there be Republicans who have disappointments, the options are limited.

All this goes to say that today has been designated by the Constitution as organizational day for the Senate. Between today and January 5, all the appointments to committees will be made in consultation with both Republican and Democrat Leaders. Hopefully, this can be accomplished within a short time. I think that you will all recognize that the bi-partisan committee assignments in the 1975 Session were quite unique in legislative history. One has to search far and wide among other legislative bodies to find comparable instances. Overwhelmingly, the precedents are in the other direction. Nonetheless, I am convinced of the view that dividing the spoils for purely political reasons does not necessarily serve public purposes. My hope is that we shall continue in much the same manner as we did in the 1975 Session, with minor adjustments principally due to the changes in Senate membership. I anticipate that we can find sufficient points of concurrence so that we may proceed without major problems.

The most important element in the next month is that the members of the Senate submit their proposed legislation to Legislative Services. Hopefully the Senate shall have enough legislation ready for introduction on January 5 so that we may begin a full calendar of committee hearings the following week. I now that the Acting Director of Legislative Services, Donald Jennings, and his staff are ready and willing to serve. The more that each member of the Senate concentrates on this aspect, the more effectively we will be able to do our job. If any of the new Senators have questions about the process, please feel free to contact either me, or the Clerk of the Senate.

Some of you may have read in the infamous column, "Under the Political Rug" that I am stingy. It is true that I am frugal when it comes to public expenditures. I do, however, want each of you to know that in the new session we shall so order the Senate in terms of its staff that there will be increased staff available to all members of the Senate, without going overboard on the expenditure side. Having gone through the experience once, one can more easily pinpoint effective adjustments without reducing the efficiency of operation. If problems should develop, I hope that you will make your concerns known so that we can quickly deal with them.

Finally, let me extend my congratulations to every one of you on your election to the Senate. I especially want to welcome the three new members: Senators Keeney, Hancock, and Healy. I also want to congratulate Senator Downing on his re-election as Democrat leader. We worked well together last time, and I am hopeful that there relationship can continue.

The Chair requested Senators Saggiotes and Downing to escort the President to the rostrum.

The President administered the oath of office to the Clerk and Sergeant-At-Arms.

Senator Hancock offered the following resolution:

RESOLUTION (1)

RESOLVED, that the Secretary of State be requested to furnish the Senate with the official return of votes from the various Senatorial Districts.

Adopted.

The Honorable Edward C. Kelley, Acting Secretary of State, appeared and presented the return of votes for Senators from the various Senatorial Districts, as returned to the Secretary's office.

Adopted.

Senator Keeney offered the following resolution:

RESOLUTION (2)

RESOLVED, that the returns from the several Senatorial Districts be referred to a select committee of three with instructions to examine and count the same and report to the Senate where any vacancies or contest exists and if so, in what Senatorial District.

Adopted.

The President appointed Senators Gardner, Brown and Provost.

Recess.

Out of Recess.

COMMITTEE REPORT

The select committee to whom was referred the various returns of votes for Senators from the several districts, having attended to their duties and having examined the returns made to the Secretary of State and the records in the office of said Secretary, report that they find the state of the vote returned from the several districts as submitted.

First District

Laurier Lamontagne, Berlin, d and r	8,254
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Second District

Andrew W. Poulsen, Littleton, r	10,229
Richard L. Bouley, Littleton, d	3,449
Plurality for Poulsen	6,780

Third District

Stephen W. Smith, Plymouth, r and d	15,266
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Fourth District

Edith B. Gardner, Gilford, r	8,995
George Bourgoine, Laconia, d	4,957
Plurality for Gardner	4,038

Fifth District

David Hammond Bradley, Hanover, r	7,877
David J. Bradley, Hanover, d	6,288
Plurality for David Hammond Bradley	1,589

Sixth District

Louis E. Bergeron, Rochester, d	8,410
Julie M. Brown, Rochester, r	4,336
Plurality for Bergeron	4,074

Seventh District

Alf E. Jacobson, New London, r	8,624
Richard E. Howard, Antrim, d	5,040
Plurality for Jacobson	3,584

Eighth District

James A. Saggiotes, Newport, r	7,250
Elbert I. Bicknell, Claremont, d	4,764
Plurality for Saggiotes	2,486

Ninth District

Robert B. Monier, Goffstown, r	10,073
Edward J. Silva, Merrimack, d	6,025
Plurality for Monier	4,048

Tenth District

Clesson J. Blaisdell, Keene, d and r	12,605
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Eleventh District

C. R. Trowbridge, Dublin, r and d	13,844
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Twelfth District

D. Alan Rock, Nashua, r	10,350
Stanwood J. Newson, Amherst, d	5,451
Plurality for Rock	4,899

Thirteenth District

John H. McLaughlin, Nashua, d	6,940
Donald C. Davidson, Nashua, r	5,316
Plurality for McLaughlin	1,624

Fourteenth District

Phyllis M. Keeney, Hudson, r	5,905
Roland F. LaRose, Nashua, d	5,525
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Plurality for Keeney	380

Fifteenth District

Mary Louise Hancock, Concord, d	6,357
Robert H. Whitaker, Concord, r	5,660
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Plurality for Hancock	697

Sixteenth District

Walter F. Healy, Manchester, d	7,319
Norman A. Packard, Manchester, r	7,235
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Plurality for Healy	84

Seventeenth District

William E. Sanborn, Deerfield, r	7,114
Barbara F. Shea, Manchester, d	5,681
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Plurality for Sanborn	1,433

Eighteenth District

Paul E. Provost, Manchester, d	6,532
William D. Ravgiala, Jr., Manchester, r	2,511
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Plurality for Provost	4,021

Nineteenth District

Ward B. Brown, Hampstead, r	9,378
Ellen M. Cressy, South Hampton, d	5,698
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Plurality for Brown	3,680

Twentieth District

Robert F. Bossie, Manchester, d and r	8,944
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Twenty-First District

Robert Fennelly, Dover, d	6,749
Laurence P. Keenan, Dover, r	5,612
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Plurality for Fennelly	1,137

Twenty-Second District

Delbert F. Fowning, Salem, d	7,984
John H. Sununu, Salem, r	6,800
Plurality for Downing	1,184

Twenty-Third District

Robert F. Preston, Hampton, d	10,178
John C. Munroe, Exeter, r	5,067
Plurality for Preston	5,111

Twenty-Fourth District

Eileen Foley, Portsmouth, d	8,206
John F. Hodgdon, New Castle, r	2,571
Plurality for Foley	5,635

Adopted.

Senator Rock offered the following resolution:

RESOLUTION (3)

RESOLVED, that the rules of the 1975 session be adopted as the rules of the 1977 session, and further that these rules be changed by majority vote for the next five legislative days.

Sen. ROCK: It would be hoped that if this is adopted by the members of the Senate that the Rules Committee could meet with the leadership of the parties, and that we could work on whatever changes might be suggested by the members of the Senate. It would also be hoped that following that, and within the five legislative days, wherein changes could be made, that a public hearing could be held, wherein any other suggestions or recommendations could be brought before the Rules Committee, which in turn will make it's report to the full Senate.

Sen. BERGERON: Mr. President, just out of curiosity, has anyone been named to the Rules Committee?

Sen. JACOBSON: No one has been named to any committee.

Adopted.

Senator Healy offered the following resolution:

RESOLUTION (4)

RESOLVED, that the Clerk of the Senate be authorized to provide during the session two newspapers printed within the State to the members and officers of the Senate.

Adopted.

Senator Fennelly offered the following resolution:

RESOLUTION (5)

RESOLVED, that the format of the Journal be established by the Journal Committee with the approval of the Senate.

Adopted.

Senator Trowbridge offered the following resolution:

RESOLUTION (6)

RESOLVED by the Senate that the House be notified that the Senate is ready to meet jointly for the purpose of electing the Secretary of State and State Treasurer.

Sen. DOWNING: Is it possible on the passage of this Resolution, and the House being so informed, that we could inquire as to what time we might reasonably expect that they would be prepared to join with us?

Sen. JACOBSON: In answer to your inquiry that after the adoption of this Resolution, we will take a momentary recess and inquiry will be made as to precisely the question that you ask.

Adopted.

Recess.

Out of Recess.

Sen. JACOBSON: I have been in the House, and have spoken to the Clerk of the House, who is at the present time the presiding officer of the House. They have not yet

come to electing a temporary presiding officer. There is, at the present time, a rather lengthy debate, with a number of speakers over the issue of whether or not there shall be by secret ballot or by open voting, for the temporary officer and the succeeding officers. The Clerk of the House informs me that unless there can be a vote to suspend the action so that we may meet jointly, according to Article 67 of the Constitution, for the election of Secretary of State and State Treasurer, and I understand there will be an effort made to vote on that kind of a suspension. But, the Clerk of the House informs me that that does not appear to be in the offing, and for that reason his estimate is 4:30 p.m.

Our options, of course, are to wait, to recess or to adjourn to the 5th of January. There is no constitutional requirement that the election take place today. It will be a matter to be decided by the Senate, which action it wishes to take.

Sen. BERGERON: Mr. President, I would like to make a motion. I don't particularly care if its in toto and to be done now, I would wait 15 minutes, but my motion is going to be to adjourn. And, I would just as soon do it now, or wait 15 minutes, but as far as I'm concerned I care not to wait around any longer than wait. I think that what's happened in the past, you know we've waited and waited and waited, and I don't think we should start the session off that way this year. So, my motion is to adjourn.

Sen. JACOBSON: The chair would state first of all, that a motion to adjourn would not be in order at this time, since we are in the early session. We could, however, take a consensus vote that that be our action as we proceed in the proper manner. There is other business in the early session that wants to be done.

Sen. SAGGIOTES: What is left on the clalendar, or any remaining business to be done today, before adjournment?

Sen. JACOBSON: The Chair knows of only Sen. Lamontagne, who wishes to speak under Personal Privilege. If there is other business, I am not aware of it, other than the normal processes of moving from the early session into the late session.

Sen. SAGGIOTES: I was in hopes that the Senate would not adjourn immediately, but to allow for a reasonable amount of time, such as, 15 minutes so that we may get a

definite response from the House. If they want to meet with us within 15 minutes, it's fine with me. If it's going to be 4:30 p.m. definitely then I would support a motion for adjournment.

Sen. JACOBSON: The Chair would state that the request of Sen. Saggiotes would seem a reasonable one, 15 minutes or a half hour. I think that we will do at the moment is the Chair will recognize Sen. Lamontagne, and after that we will have a momentary recess again. As soon as the House has received our message that we are ready, then I think it would be the proper time again to request that we meet jointly for that purpose, and ask for a time limitation.

PERSONAL PRIVILEGE

Sen. LAMONTAGNE: Mr. President and Members of the Senate, I have two matters that I consider to be of great importance. The first is in reference to the radio news item, that I heard today, criticising Commissioner Flynn and Motor Vehicle Director Fred Clarke. I was shocked to hear what the House Committee on the Title Investigation said in its report, which came over the air this morning. The reason that I'm shocked about it is that, I believe, the blame was put on the wrong person. The reason I say this, is that I am very very familiar with how the Title Bureau has been operating since it was enacted into law. I was one of the leaders for the Title, along with Steve Smith, and we spent a great deal of time with this Bureau.

We copied our law after the State of Connecticut, and it's a good one. The State of Maine, when they adopted their Title Law had been wrong, and therefore had to amend it. As far as I'm concerned, New Hampshire, because of what happened in the State of Maine, did not have any intention of including some of these old cars. But, Governor John King's appointment, who became Director of the Title Bureau, had the idea of turning this around and putting in the old cars. If the Director had listened to the leadership, and included just the new cars, as the bill was intended, we would not have had the problem. The new cars have a certificate of origin and this does not cause confusion. I was the sponsor of the bill that included cars from 1964 and up, this enabled the department to operate more efficiently.

I'm introducing a bill this session to cut it another five

years, in order to save that department a lot of work. These \$150 cars are not worth even bothering to waste the time of having titles. I feel that the criticism made about the Director of Motor Vehicles, Fred Clarke, and the Commissioner of Safety, Mr. Flynn, was completely wrong. Somehow, somebody got their wires crossed, and I think somebody should have gone further and investigated to find out from the people, who had the experience in the past on the Title Bureau, what the problems were.

Now, the next subject that I want to talk about is in reference to Franconia Notch. Today is December 1st, and this is the last day that the Public Works Department will be receiving statements from different individuals and organizations, concerning a four lane highway.

I don't know how many resolutions we have passed for a four lane highway, but somehow the people in Washington have their ears blocked and don't seem to understand what the wishes of the New Hampshire people are. We've had many Massachusetts people against the four lane highway. The Old Man of the Mountains has always been blamed. They say that the big fat trucks are going to be causing a lot of rumbles and will knock the Old Man down. I've known, for the last twenty years, that the Old Man has had a problem.

Let me say it this way, the Old Man has a headache, and the headache is caused by water going into the crack of his head. When it freezes, it's just like a wedge and it spreads the Old Man's head. A lot of the ledge has fallen already because of the ice. For the last twenty years, and probably more than that, they've been putting a chain and tying his head to keep it together.

If the time comes that the Old Man is going to come down, I'm going to tell you right now, you're not going to blame the trucks, because the trucks are not responsible for it. The Old Man is getting old like everyone of us, and there might be a day when he is going to be coming down. But, because of the Old Man having a headache, I don't think it's right for the rest of the people to isolate the people from the North Country. We've been isolated for a long time, and it's about time we got out of that isolation so that we can join the rest of this State. I'm hoping that my remarks will be sent to the Commissioner of Public Works and High-

ways, John A. Clements, as support for a four lane highway.

Sen. JACOBSON: Is there any further business at the moment? If not, we'll take another momentary recess, and the Chair will make a further inquiry with regards to the House.

Recess.

Out of recess.

Sen. JACOBSON: There has been a resolution prepared for purposes of discussion, which is now being passed out. The Chair will recognize Senator Trowbridge, who moves the resolution.

Sen. TROWBRIDGE: Mr. President, I think everybody has the resolution. The purpose of this resolution is a way for us to communicate to the House where we are at the present time and for purposes of planning. Rather than just to keep sending over messages, saying we're ready to meet with them, I thought it was better if we wrote something out so that the public and record would show just what happened here today.

RESOLUTION

RESOLVED, that whereas the Senate has completed its organization and has been waiting upon the House since 2:30 p.m., and

WHEREAS, it appears that the organization of the House may not be completed before 5:00 p.m. at which time many members of the Senate are obliged to leave,

NOW THEREFORE, the Senate wishes to inform the House through its Temporary Chairman that the Senate members will not be available after 5:00 p.m. on December 1, 1976 to meet jointly to cast ballots for Secretary of State and State Treasurer and hopes that the House will be able to suspend its proceedings before that hour in order to facilitate said voting.

Sen. TROWBRIDGE: The reason for the resolution is to

make it purely clear that there has been a hiatus of time here, that we are waiting, and that it's verbalized a little more, than the normal message that we might send saying that we're ready and waiting. And, to give some idea to the House that there is a finite deadline upon which the Senate is not going to wait. I think we've waited quite a while here, and therefore if someone wants to change the resolution, I have no objection. I just thought it was a useful way of sending the message to the House.

Sen. PRESTON: Senator Trowbridge, would you agree that we can add onto that in the event that they were not available at 5:00 p.m., that we are planning to recess until January 5th at 10:00 a.m., at which time we will conclude our business?

Sen. TROWBRIDGE: That will be fine with me, all I said was that we would not be available after 5:00 p.m., leaving the other issue up in the air as to when they wanted to meet. I didn't approach that one, if the Senate wishes to, so be it.

Sen. MONIER: Is it not correct, or is it correct that we must elect a Secretary of State on the first of December?

Sen. JACOBSON: The Chair will state that he has been in consultation with Senator Bossie, our legal authority here at the present time, and there is a statutory revision that relates to the organizing of the convening session, which does include the election of the Secretary of State and the State Treasurer for this date.

Sen. MONIER: Is it necessary that they have a presiding officer, per se in order for us to meet with them?

Sen. JACOBSON: The Chair will respond by saying that as far as his knowledge extends, there would be someone required to conduct the balloting. But, there is nothing either in statute or the Constitution that requires what we commonly know as a Joint Convention, so that I think it would be possible for any person to say "Let us ballot for Secretary of State or our Treasurer". In the orderly process, we would probably need someone who is presiding to conduct the balloting.

Sen. MONIER: I strongly support it, and I merely asked those questions, Senator Trowbridge, because we asked similar questions in the caucus, and they do have someone

presiding. It's the Clerk, and this is why I'm wondering if we can't perhaps say to them, maybe they don't know this, that they can meet with us in the same room with the presiding officer they now have, which they've elected as the Clerk to run it for them. That's just a possibility is all I'm trying to say.

Sen. TROWBRIDGE: There's no question that the Clerk could be their Temporary Chairman for purposes of doing this, so I don't think that's the big problem that they don't have a Temporary Chairman. The main problem I have now, I've been down listening to the tapes in the Press Room, maybe you don't know—would you like to know what happened? The vote was 189 for Peterson, 187 for Dick Bradley, and five votes were cast for David Bradley. So, the Clerk ruled that the votes cast for David Bradley could not be counted for Richard Bradley. They are now, Rep. Plourde has appealed the ruling of the Chair. The question was that if the appeal of the Chair were overridden, went against the Chair, does it mean that the votes for David Bradley would be cast for Richard Bradley, or does it mean that you go back and vote again? Now they're going in a swirl on that one. I'm not all sure that it's going to be productive to have balloting for the Secretary of State and State Treasurer under the circumstances that now prevail in the House. I really think that we might be doing a service to the State if we don't embroil those two contests into what's going on at the present time, and recess calling it December 1, if we can, and drag December 1 on until someother date when this other thing has been resolved. That came up after I drafted this resolution.

Sen. MONIER: Then I would suggest, Mr. President, that while I would be very happy to pass this, that we would have some kind of an agreement that once they had answered this, that we would then have some kind of a motion that would allow us to come back on December 1st, so that we could meet the legal requirement.

Sen. JACOBSON: The Chair would further state that the easiest manner in which to handle this would be to simply recess to the call of the Chair, and as a further amplification of what Senator Trowbridge has already said, I understand that there was an agreement among all candidates that all votes would be by majority vote, so if the ruling of the

Chair, the temporary Chair, with respect to the votes of David Bradley is sustained, it will still require another ballot apparently.

Sen. TROWBRIDGE: No, not quite, because if the five votes for David Bradley were added to the 187 votes of Richard Bradley, there would be a plurality.

Sen. JACOBSON: No, I said if the ruling were sustained.

Sen. TROWBRIDGE: Oh, if the ruling was sustained, then Governor Peterson would not have a majority, he has a plurality only, and they'd have to go back and vote again.

Resolution adopted.

Recess.

Out of recess.

Sen. JACOBSON: The motion to lay on the table, the motion to take up the Secretary of State and the Treasurer at this present time, rather than at the conclusion of all House business prevailed 193 to 180, which means then that the Senate in order to meet jointly with the House, would now have to wait until sometime after the other officers have been chosen. The Chair awaits your pleasure.

Sen. DOWNING: I move that we recess to the call of the Chair.

Sen. BERGERON: What is the probability of us being called back prior to January 5, do you have any idea?

Sen. JACOBSON: I would have no estimate. It would be my position, if this motion prevails, that I would contact the Speaker of the House and suggest that we meet prior to the first Wednesday in January, at the same time that we will be meeting on the first legislative day to conclude the December 1st session. That would be my position.

Sen. ROCK: Mr. President, at this time, I would like the record to clearly show that the hour is well after 5:00 p.m., that it is certainly not my desire or wish to influence how the House would in any way conduct its business, but that this Senate has stood by with almost a full compliment, as I can see looking around this room, and we have been, not only patient, but we have taken the initiative and tried to show the House of Representatives how this could be re-

solved without further inconvenience to that Body that has its house in order and its work completed. So, I support the motion of Senator Downing at this time.

Sen. LAMONTAGNE: Mr. President, I would also have to support the motion, because I was not aware that we were going to be here this late, and I have a commitment.

Motion adopted.

Recess.

OUT OF RECESS

HOUSE MESSAGES

To the Honorable Senate

Mr. President:

The House of Representatives has organized and has chosen:

George B. Roberts, Jr., Speaker

James A. Chandler, Clerk

Carl A. Peterson, Assistant Clerk

Warren Leary, Sergeant-At-Arms

Mr. President:

The House of Representatives is ready to meet with the Honorable Senate in Joint Convention for the purpose of electing a Secretary of State and a State Treasurer.

Recess.

Joint Convention

Out of recess.

Senator DOWNING: I move that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until January 5th at 1:00 p.m.

Adopted.

LATE SESSION

Senator Healy moved that the Senate adjourn.

Adopted.

Wednesday, 5 Jan 77

A quorum was present.

HOUSE MESSAGE

To The Honorable Senate

Mr. President:

The House is ready to meet with the Honorable Senate in Joint Convention for the purpose of canvassing the vote for Governor and Councilors.

Recess.

Out of Recess.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Send Thy Blessings upon us oh Lord, as we renew our work again in this honored place.

May we always be aware of the good deeds done and the work of the past—as we begin a New Year and a New Term together.

Let the tidings of joy and peace of this season, enter our hearts and souls and minds.

God Bless us All! Each and Everyone.

Amen

Pledge of Allegiance was led by Senator Downing.

Senator Saggiotes moved that the appointment by the President of Shelby Aisner as Assistant Clerk be confirmed.

Adopted.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 1-15 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

SB 1, relative to the duties of city and town clerks for voter registration. (Sanborn of Dist. 17—To Executive Departments, Municipal and County Government)

SB 2, permitting optometrists to advertise prices for glasses and contact lenses. (Rock of Dist. 12—To Administrative Affairs)

SB 3, removing the authority of certain public utilities to grant free or reduced rate service in certain cases. (Rock of Dist. 12—To Energy and Consumer Affairs)

SB 4, establishing a board of claims for the state and making an appropriation therefor. (Trowbridge of Dist. 11—To Finance)

SB 5, permitting licensed establishments and holders of on-sale permits to advertise their prices by the drink or beverage and permitting state liquor stores to offer gifts and prizes. (Rock of Dist. 12—To Administrative Affairs)

SB 6, providing for a power of attorney which survives disability or incompetence of the principal. (Bradley of Dist. 5—To Judiciary)

SB 7, establishing retirement and permanent disability benefits for district court justices. (Rock of Dist. 12—To Judiciary)

SB 8, providing for the cy pres of cemetery trust funds. (Trowbridge of Dist. 11—To Administrative Affairs)

SB 9, legalizing a special meeting of the town of Peterborough. (Trowbridge of Dist. 11—To Executive Departments, Municipal and County Government)

SB 10, relative to the filing of a notice of a petition to attach real estate with notice with the register of deeds of the county where in the real estate is situated. (Bossie of Dist. 20—To Banks)

SB 11, relative to a short form mortgage or deed of trust. (Bossie of Dist. 20—To Banks)

SB 12, relative to the procedure used to handle complaints filed with the commission for human rights. (Foley of Dist. 24—To Administrative Affairs)

SB 13, making supplemental appropriations to the pharmacy commission for the fiscal year ending June 30, 1977. (Brown of Dist. 19—To Finance)

SB 14, requiring public motion picture theaters to give notice before paid commercials are shown. (Monier of Dist. 9—To Recreation)

SB 15, relative to a mandatory penalty for illegal sales of narcotics by drug pusher. (Sanborn of Dist. 17—To Judiciary)

The President presented the Senate Committee Assignments for the 1977 Session unless otherwise ordered by the Senate.

SENATE COMMITTEE ASSIGNMENTS

Finance Division—Chairman—Sen. Trowbridge

Sen. Trowbridge—Chairman

Sen. Blaisdell—Vice Chairman

Sen. Rock

Sen. Saggiotes

Sen. Sanborn

Sen. Smith

Sen. McLaughlin

Sen. Provost

Capital Budget

Sen. Sanborn—Chairman

Sen. Saggiotes—Vice Chairman

Sen. McLaughlin

Sen. Blaisdell

Sen. Rock

Sen. Smith

Education

Sen. Smith—Chairman

Sen. Sanborn—Vice Chairman

Sen. Blaisdell

Sen. Provost

Public Institutions

Sen. McLaughlin—Chairman

Sen. Provost—Vice Chairman

Sen. Rock

Sen. Saggiotes

Sen. Trowbridge

Government Operations—Chairman—Sen. Poulsen

Executive

Sen. Monier—Chairman

Sen. Preston—Vice Chairman

Sen. Hancock

Sen. Poulsen

Sen. Brown

Transportation

Sen. Gardner—Chairman

Sen. Poulsen—Vice Chairman

Sen. Lamontagne

Sen. Fennelly

Sen. Healy

Recreation

Sen. Preston—Chairman

Sen. Monier—Vice Chairman

Sen. Hancock

Sen. Healy

Sen. Lamontagne

Sen. Gardner

Cities

Sen. Lamontagne—Chairman

Sen. Keeney—Vice Chairman

Sen. Hancock

Sen. Healy

Sen. Sanborn

Resources—Chairman—Sen. Bradley

Judiciary

Sen. Bradley—Chairman

Sen. Bossie—Vice Chairman

Sen. Fennelly

Sen. Keeney
Sen. Foley
Sen. Jacobson

Ways and Means
Sen. Downing—Chairman
Sen. Fennelly—Vice Chairman
Sen. Keeney
Sen. Bradley
Sen. Foley
Sen. Bergeron

Environmental Control
Sen. Keeney—Chairman
Sen. Foley—Vice Chairman
Sen. Bradley
Sen. Fennelly
Sen. Hancock

Consumer Division—Chairman—Sen. Brown

Banks
Sen. Poulsen—Chairman
Sen. Bergeron—Vice Chairman
Sen. Bossie
Sen. Preston
Sen. Rock

Administrative Affairs
Sen. Brown—Chairman
Sen. Poulsen—Vice Chairman
Sen. Healy
Sen. Bergeron
Sen. Monier

Energy
Sen. Bossie—Chairman
Sen. Saggiotes—Vice Chairman
Sen. Jacobson
Sen. Foley
Sen. Fennelly
Sen. Brown

Interstate Co-Op

Sen. Jacobson—Chairman

Sen. Bossie

Sen. Foley

Rules

Sen. Rock—Chairman

Sen. Downing

Sen. Smith

Journal

Sen. Jacobson—Chairman

Sen. Trowbridge

Sen. Downing

Enrolled Bills

Sen. Lamontagne—Chairman

Sen. Saggiotes

Sen. Bergeron

Research Staffing and Facilities (Subcommittee of Legislative Facilities)

Sen. Jacobson—Chairman

Sen. Downing

Sen. Trowbridge

Sen. Saggiotes

Sen. Monier

Sen. Blaisdell

Sen. Smith spoke under Senate Rule 44.

Senator Bradley spoke under Senate Rule 44.

Senator Healy spoke under Senate Rule 44.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until tomorrow morning at 11 a.m.

Adopted.

Late Session

Senator Monier moved that the Senate adjourn at 2:45 p.m.

Adopted.

Thursday, 6 Jan 77

The Senate met at 11:00 a.m.

A quorum was present.

The Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

We remember before Thee, Lord, on this Inauguration Day—all those who are engaged in the government of this state.

May Thy Holy Spirit save them from pride and arrogance, embue them with wisdom in order that they may see the needs of others and promote good will and fellowship with those with whom they serve—as well as those whom they represent.

Hear our prayer, Lord, and help us so to do.

Amen

Senator Healy led the Pledge of Allegiance.

HOUSE MESSAGE

To the Honorable Senate

Mr. President:

The House is ready to meet with the Honorable Senate at 11:45 a.m. for the purpose of receiving His Excellency, the Governor, and to hear any communication he may be pleased to make, and for the transaction of such other business as may properly come before such Convention.

INTRODUCTION OF SENATE RESOLUTION

Senate Resolution No. 1

memorializing the New Hampshire Congressional delegation regarding the Environmental Protection Agency. (Healy of District 16—To Rules).

Recess.

Out of Recess.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday at 3:00 p.m.

Adopted.

Late Session

Senator Fennelly moved that the Senate adjourn at 1:30 p.m.

Adopted.

Tuesday, 11 Jan 77

The Senate met at 3:00 p.m.

1. A quorum was present.
2. Senators Fennelly, Foley and Keeney are excused due to the storm.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

May we be ever mindful, Lord, of Thy presence, as we begin our labors once again.

Ebue us with Thy qualities of fairness, wisdom, and understanding as we try to sort the correct from the incorrect decisions, so we may attain a solid and firm hold on our responsibilities to our great state.

Attune us to Thy voice, and lift us up to the standards that thou has given to each and every one of us in this Senate.

We need *Thee* and humbly seek Thy help with grateful hearts.

Amen

Senator Saggiotes led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 16-21 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein committees.

Adopted.

SB 16, relative to the extent of medical treatment which a

licensed podiatrist may perform. (Smith of Dist. 3—To Public Institutions)

SB 17, permitting nonprofit social clubs holding a liquor license to charge members and guests to cover entertainment costs. (Lamontagne of Dist. 1—To Ways and Means)

SB 18, relative to nonprofit organizations and the meals and rooms tax. (Lamontagne of Dist. 1—To Ways and Means)

SB 19, permitting the gross weight on the interstate highway system as authorized by the Federal Aid Highway Amendments of 1974. (Lamontagne of Dist. 1—To Transportation)

SB 20, providing that only persons less than 16 years of age be required to wear protective headgear while operating or riding on a motorcycle. (Sanborn of Dist. 17; Bossie of Dist. 20—To Transportation)

SB 21, requiring the impoundment and forfeiture of a "propelled vehicle" used in the commission of certain crimes. (Sanborn of Dist. 17—To Judiciary)

SUSPENSION OF RULES

Senator Poulsen moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report on **SB 9** not previously advertised in the journal.

Sen. POULSEN: This requires a little haste. The committee heard the bill this morning. The report is "ought to pass" and time is of the essence. There was a proper executive meeting and the vote was unanimous in favor of the bill.

Sen. DOWNING: Would you explain exactly what the bill is?

Sen. POULSEN: Certainly. The bill only legalizes the action of the town of Peterborough in a water project. There was no problem known to the town or anyone connected to the town by bond counsel in long-term financing of this project. It had already borrowed the money on short-term notes and were in business. To get the long-term bonds, it had to go through bond counsel in Boston who picked up what he considers a flaw. No one else considers it a flaw. This is just to legalize to the satisfaction of bond counsel.

Sen. MONIER: May I rise in support of the motion. I would hope the senate will go along with this request.

Adopted by the requisite 2/3 majority.

COMMITTEE REPORT

SB 9, legalizing a special meeting of the town of Peterborough. Ought to pass. Senator Poulsen for the Committee.

Sen. POULSEN: This bill has already been described as having some haste to it because the town would have to vote in their town meeting to bond this money. This bill is necessary. Its completion is necessary before town meeting time, which I think will be in February.

Sen. BRADLEY: Could you tell us what the flaw is that we are trying to correct?

Sen. POULSEN: The flaw is relatively minor. The water department in the town had, by previous vote in 1965, given premission to go ahead, to plan and to start this water project. As far as everyone in town knew, it had authority to do so. The bonding was expected to be automatic, but when the long-term bonds were applied for, the counsel in Boston felt they should come under the ordinary rule that required a majority vote at the town meeting to qualify a bond.

Sen. BOSSIE: I rise in favor of the committee report. In my private life as legal counsel for a municipality, I understand the problems these towns have. I just wish that some of these bond counsels would make the problems known to the towns prior to costing this legislature and the towns a considerable amount of money to pass bills of this nature. Either that, or we should change the law. I think in this case the law with regards to bonding probably should be changed so that we won't have to go through this procedure every time. I have no problems with the bill.

Adopted. Ordered to third reading.

The Senate President announced:

SENATE LEADERSHIP ASSIGNMENTS

1977-1978

Senate President	Alf E. Jacobson
Senate Vice President	Ward B. Brown
Senate Majority Leader	James A. Saggiotes
Senate Whip	Stephen W. Smith
Assistant Majority Leader	Edith B. Gardner
Democrat Leader	Delbert F. Downing
Assistant Democrat Leader	Robert F. Bossie

Assistant Democrat Leader
Democrat Whip
Deputy Democrat Whip

Eileen Foley
Robert F. Preston
Louis E. Bergeron

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution, and that when we adjourn, we adjourn until Wednesday at 3:00 p.m.

Adopted.

Late Session

Third reading and final passage

SB 9, legalizing a special meeting of the town of Peterborough.

Adopted.

Sen. Bossie moved to adjourn at 3:20 p.m.

Adopted.

Wednesday, 12 Jan 77

The Senate met at 3:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain:

Our Father, as we come into Thy presence this afternoon, help us to think clearly, so that we shall not fail to do the best for all concerned.

We know that by ourselves we are not sufficient enough to combat the problems which confront us, but with your help Lord, we can try to overcome those things which seem unsurmountable.

Open our eyes—come into our hearts, so we may find the truth of each situation as it arises, then Thy will, Lord, will be done through us.

Amen

Senator Sanborn led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

First and second reading and referral

SB 22, relative to food and nutrition programs. (Blaisdell of Dist. 10—To Education)

SB 23, increasing the penalty for reckless operation of a motor vehicle. (Blaisdell of Dist. 10—To Judiciary)

INTRODUCTION OF SENATE RESOLUTION

Senate Resolution No. 2

commemorating Deputy Secretary of State, Edward D. Kelley, for his service to the state. (Referred to Rules.)

Senator Healy moved that the rules of the Senate be so far suspended as to allow that Senate Resolution No. 2 be placed on second reading at the present time.

Adopted.

SENATE RESOLUTION NO. 2

commemorating Deputy Secretary of State, Edward D. Kelley, for his service to the state.

Whereas, the members of the New Hampshire Senate, wish to express our sincere appreciation to you, Edward Kelley, for the extraordinary manner in which you have performed the duties of your office of Deputy Secretary of State. Throughout your long and faithful service to the State of New Hampshire, you have exercised the responsibilities of your office in a highly competent and nonpartisan manner, thereby earning you the respect of Legislators and State House employees alike; and

Whereas, particular cognizance is here taken of your tireless efforts to insure and maintain the accuracy and integrity of the Office of the Secretary notwithstanding the increased burdens placed on that office as a result of many crucial recounts which have occurred in recent years. As a consequence of your excellent performance throughout these trying times, not only have you added to your personal stature as a public official, but you have elevated the stature of the office you hold; now, therefore, be it

Resolved by the Senate, in recognition of your record of

service to the State of New Hampshire, we the members of the New Hampshire Senate resolve that you be awarded this certificate of honor this twelfth day of January 1977.

Adopted.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday at 3:00 p.m.

Adopted.

Late Session

Senator Keeney moved to adjourn at 3:40 p.m.

Adopted.

Tuesday, 18 Jan 77

The Senate met at 3:00 p.m.

A quorum was present.

The Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain:

Almighty God, Let Thy Spirit guide our meeting this day.

Bind us together as we work to preserve those enduring values which you have revealed unto us.

Renew a strong faith within us—and a high hope for the future—as we set that course, by our actions today.

May we ever be ready in thought, word and deed to do Thy Will.

Amen

Sen. Rock led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILL

First and Second Reading and Referral

SB 24, relative to the statutory definition of “farm, agriculture, farming.”

VACATE

Sen. Poulsen moved to vacate **SB 10**, relative to the filing of a notice of a petition to attach real estate with notice with the register of deeds of the county wherein the real estate is situate, from the Committee on Banks to the Judiciary Committee.

Adopted.

COMMITTEE REPORT

SB 1, relative to the duties of city and town clerks for voter registration. Ought to pass. Sen. Preston for the Committee.

Sen. PRESTON: This bill changes the current law to say that all towns with regular office hours, through town clerk, must accept applications from persons eligible to vote—and pass them on to the Supervisors of checklist for their scrutiny. One town clerk appeared and said clerks had enough to do. This bill was not intended as a criticism of Supervisors of checklists or town clerks, but an attempt to make the process of voter application more convenient. Sen. Hancock, in committee hearing, pointed out that most people know who and where the town clerk is but very few people know the Supervisors of the checklist, their locations or the hours they keep. Our concern for low voter turn-out and elections reform can perhaps in some way be answered by passing legislation that makes the process more available to the average citizen.

Sen. SANBORN: This is a very simple bill that it allows the various town clerks within this state to hold regular office hours to accept an application. I expect that later on we will be having a bill that will provide the application. I hope that on passage of that bill there will be an application form provided by the state to each of the towns so as to be no expense to the town. When somebody desires to register to vote, all they have to do is ask for the application, fill it out, and turn it over to the Board of Supervisors. I can't see that it requires any more work of the town clerk.

Sen. GARDNER: Some of the town clerks that I contacted in my area are very pleased with this. They say that it makes them better acquainted with the public.

Sen. BRADLEY: Sen. Sanborn will this decrease the responsibility of the supervisor of the checklist in any way?

Sen. SANBORN: None whatsoever Senator. The super-

visors still may require the applicant to come before them if they have any questions that are not answered on the application. It does not reduce their official capacity one bit.

Sen. BRADLEY: Is the town clerk supposed to exercise any judgment one way or another on the qualifications of the applicant or is his/her job just to pass on the information.

Sen. SANBORN: The town clerk is receiving the application and passing it on to the supervisors.

Adopted. Ordered to a third reading.

SUSPENSION OF RULES

Senator Sanborn moved that the rules of the Senate be so far suspended as to allow **SB 1** to be read a third time, at the present time.

Adopted.

Third Reading and Final Passage

SB 1, relative to the duties of city and town clerks for voter registration.

Adopted.

Sen. Monier moved that the deadline to amend the rules by a majority vote be extended from the 5th legislative day to the 6th legislative day.

Sen. MONIER: Today is our last day for amending or accepting rules. I would like to ask the indulgence of the senate to extend the deadline to the next legislative day. I would like some additional time to look at them.

Sen. PRESTON: Sen. Monier could you be more specific?

Sen. MONIER: I think when I voted to accept the 5 day legislation, it was on a basis we would have 5 days, but we have had two days, one day, and one day. They have been spread out. I have not had a chance to put my thoughts together. Had we been here for two or three days in a row, I would have been happier with it. I just want another day to go through some of the rules.

Sen. DOWNING: Does this accommodation bring any particular difficulty on the chair?

Sen. JACOBSON: No, I don't believe so.

Sen. DOWNING: I have no objection to honoring the request of Sen. Monier.

Sen. ROCK: Mr. President, I second Sen. Monier's recommendation as chairman of the rules committee and out of senatorial courtesy. I think if the senator wants one extra legislative day, it poses no problem with the chairman of the committee.

Sen. SAGGIOTES: If this motion passes when will the last day be?

Sen. JACOBSON: The 6th Legislative day would be February 1.

Adopted.

The Committee on Rules and Regulations proposed amendments to Rule 27 and Rule 39. (Senator Rock for the committee)

Sen. ROCK: The rules committee has recommended two changes. Each of you should have at your place today a copy of the rules of the Senate as we are presently operating and that we operated in the 75-76 session. The changes are to rules 27 and 39. I would like to discuss the amendment to rule 27 first. The change to Rule 27 came about as a result of the President's reorganization of the various divisions and the establishment of new committees and the dividing of other committees and their responsibilities. Previously, the Senate had three major divisions and under the President's proposals, this term there will be four. The finance division consisting of the committee on finance, capital budget, committee on education. The government operations division will consist of the committee on executive departments, municipal and county governments, committee on transportation, committee on recreation and the committee on cities legislation. The third division, the resource division, consists of the committee on the judiciary, committee on ways and means, and the committee on environment, and I'll pause there long enough to say that at the suggestion of our new Senator from the 14th district the word control was eliminated from that committee. It was previously the committee on environmental control and it now becomes the committee on environment. The consumer division, which is the new division, shall consist of the committee on banks, administrative affairs, the committee on energy and consumer affairs. It was established by the president in the previous biennium. These divisions are coordi-

nated by division heads who organize the dates for committee hearing and in general act as administrators for each division and keeping it on a smooth path toward the completion of its legislative chores. The other committees, which are standing committees, are interstate cooperation, the committee on rules and resolutions, committee on journal, and enrolled bills.

Rule 39, is the second rule proposed to change for the members of the Senate. Rule 39, as it now reads states "The committee shall promptly consider and report on all matters referred to them. The president may authorize such committees having a heavy load of investigation, redrafting, research, or amendments to meet as needed on legislative days during the legislative session." The proposal strikes out this rule only in theory. It merely adds this sentence on the end: "the clerk of the senate shall prepare a list by number, title, and sponsor, of all senate bills and resolutions in committee which have not been acted upon within one week before the deadline established for the transfer of bills and resolutions from the Senate to the House of Representatives, and he shall distribute this list to every member of the Senate as soon as it is prepared." That change came about as a result of several meetings of the rules committee. It was recommended that there be a change in that rule and this rule change appears to take care of the matter of where bills are when they are not back on our desks for some action. This would put the sponsor of the bill on notice because some Senators do have many bills and they do have other duties. They might lose track of a bill of their own only to find that a deadline had been passed before the bill was brought out of committee and the time expired before action. This will put them on notice as to where their bill was, which committee, the number of the bill, and the title of the bill. This would be distributed to the members of the senate so they would be apprised of the situation as it pertains to that legislation. Those are the proposed amendments and I'd be happy to answer any questions regarding them.

Sen. BERGERON: on rule 39, I believe in the last biennium we operated on the basis that if a committee felt desirable to hold on to a bill, they could do so, and the only way it could be vacated is on a two thirds vote of the Senate. Does this change in any way affect that particular rule?

Sen. ROCK: Mr. President, the committee felt that over the

years the judgment of the various chairmen had indeed been excellent judgment. Having served on the other side of the wall there is a different rule that I believe causes the committees a great deal of confusion. That mandates a bill out of committee in certain number of days. It seems to me that you have as a result of that, hastily enacted legislation, without the proper research in many cases and without the adequate study that lead to good legislation for the people of the State of New Hampshire. The majority of the committee felt strongly that that measure had worked well in the Senate and that the senate chairmen had not acted in a capricious manner in holding legislation. In no way does this rule change the chairman from using wisdom in keeping a bill for study or certain changes on a certain day. So I guess the direct answer to your question is no; it does not change that.

Sen. BRADLEY: If we were to adopt this rule, so that the sponsor is put on notice that the bill is in committee, how could the bill be taken out of the committee? Would it require a two thirds vote to discharge it?

Sen. JACOBSON: The Chair would state that the precedent was established in the 1972 special session on a ruling of the chair that it required a two thirds vote to discharge a bill from committee. There is no rule on the question itself so that we have to go to case precedence and that is the precedent that we know of.

Sen. BRADLEY: I do not believe the chair is bound by such precedents and I want to be absolutely clear of your position. Do I understand you to say that you intend to rule if the issue comes up in this session?

Sen. JACOBSON: That would be my intention.

Sen. BRADLEY: Senator Rock, has your committee considered a rule at that point when a bill not having been acted on and reported as being still in committee, that such a bill could be discharged by majority rule of the senate.

Sen. ROCK: I can't speak for the committee Senator, because they would have to answer that separately. My feeling would be, I would at that point certainly have confidence in the ruling of the Chair. It is not directly by the rule but by the precedent that the President has just commented on. I would say, at this point, this is a good change.

Sen. BRADLEY: Accept for the moment that the chair's ruling is correct as far as the current rules go. Could you support a rule which would change the present ruling of the

chair that a bill could be discharged by a majority vote. Would you support such a proposed change in this rule?

Sen. ROCK: No.

Sen. BRADLEY: Sen. Rock, you are saying that the committee should be able to override the wishes of the majority of this Senate. Isn't that the effect of the position you take?

Sen. ROCK: No. I would say more clearly, my position would be to support the previously announced intention of the chair. That would be his ruling on the precedent of 1972.

Sen. BRADLEY: The chair has made a ruling based on what the present rules are, I am asking the position of yourself and the rules committee with respect to writing this rule, or absence of a rule. From this rule, it's clear that the majority of this senate could decide to act on a bill contrary to the wishes of the committee that wishes to bottle it up.

Sen. ROCK: I don't put the same weight on the words you do. I'd have to go back to my original support of the amendment as it is proposed to the senate today. I have confidence with the members and chairman of the committees of the senate who have in their wisdom seen the need for further study of a bill, the establishment of interim study of a bill, or that the bill might be in some way better served by remaining in committee rather than being reported out haphazardly without proper study. I have confidence in those chairmen, and in those committee members that they would not act in a manner that would be detrimental to the majority of the senate or to the people of this state. I see here a measure that has worked well and I think the committee in its deliberations gave more consideration to this matter than to any other matter that came before us. We met three different times on this one rule change alone. I see this as a step in the direction that you would like to see ultimately accomplished, which the majority of the committee did not feel was necessary.

Sen. SMITH: Mr. President I arise in support of the new rule change on Rule 39. I think what the proposal does is to allow a senator to be aware of what bills of his may be in committee. It also allows every senator to know if there seems to be a blockage in some committee and if there are a number of bills which are going to be allowed to die. Then the senate may take some action. I think the rule as a whole, are developed for an orderly operation for the senate and we have many rules in this senate which are adopted by a two-thirds vote, and I don't think this is unusual. I think having observed

the House of Representatives that their rule for making bills come out in 12 legislative days, works often to the detriment of good legislation. Under the old rules, I think 99% of bills were reported out under the old system and they were reported out when the committee had time to analyze, to look at, and to evaluate a piece of legislation. I think Senator Bradley in his presentation before the rules committee mentioned one bill in his committee last session which they did not want to report out because no matter what kind of action was taken on it, there would have been repercussions in the courts. Also I think anybody who has been a committee chairman, or been on any committee in the senate has had the experience of having a bill in their committee which the sponsor of the bill did not want reported out and the committee did not want to report out. In fact I personally have introduced legislation, gone to the hearing and heard the testimony and was so embarrassed at what a bad bill it was that I crawled out the door, and I was more than pleased to have such legislation die in committee. I think what this proposed rule does is to make the senate aware of what bills are in what committees. The individual senator who gets buried towards those deadlines is made aware of what bills of theirs are in what committees. I hope the senate will go along with the amendment.

Sen. BRADLEY: Do you think that a committee should be able to kill a bill by sitting on it contrary to the wishes of a majority of this senate?

Sen. SMITH: I personally don't think that is really the issue at this juncture. I think the issue is whether or not we are going to have an orderly operation in the senate. I think that the committees must be given some responsibility and have some authority as far as the bills are concerned.

Sen. BRADLEY: I actually think that the proposed rule change is a step in the right direction and for that reason I will vote for it. However, I do intend to come in with an additional amendment when we next meet which should go a little further. I do not think it is consistent with our concepts of openness of public debate, or fair debate to have the system we have now which allows bills to be bottled up in committee and to die there prior to this rule change, which I say is a step in the right direction. And to have that happen without anyone realizing it. With no good way to determine what happened to all those bills. I think every bill ought to get out at least once and see the light of day on the senate floor. If the bill is like the

bill I mentioned to the rules committee it wouldn't be misunderstood, and that seems fine to me. You leave it there or you bring it out and recommit it. Or the sponsor wants the bill to stay in the committee. I have no problem with that. The problem I have with the existing framework as interpreted by the chair and the rules committee, is that if I got a bill out of committee and perhaps 15 senators were ready to vote in favor of it, the committee can sit on that bill and kill it. In a 5 man committee that means 3 people can kill a bill that 15 want passed and that just isn't the way we ought to be doing business.

Sen. DOWNING: Do you realize that if such a case was presented to this senate and you asked the Chair to rule on it and the Chair ruled on a two-third vote to get something out of the committee however appealing to the Chair a majority vote would overrule, therefore it means a majority vote could in fact force a bill from committee.

Sen. BRADLEY: I don't think that is a sufficient answer. It's a tactic which you might want to employ if you found yourself in that situation, but when I vote on the question of overruling the chair, I consider voting on the merits of this ruling and not on what I am trying to accomplish down the road. As I understand the situation the rules are silent on the question of the majority required for a motion to discharge and if the Chair is entitled to rule and the Chair is following the will of the Senate so as far as that goes, I don't argue that the Chair's ruling is wrong, and I have difficulty in my own mind voting against the ruling of the chair per say. What I think we ought to make the rules so they are not binding and make the rule the way they ought to be which is there ought to be a majority vote. So I don't think its a total answer to say that if you've got a majority of the senate with you you can override the Chair and do what you want to do.

Sen. DOWNING: I don't know that it is a tactic as much as parliamentary procedure. You understand the chair could rule a majority vote or two-thirds vote. Regarding your inquiry today, the chair stated that he would rule based on the previous precedents, but that doesn't mean that that would be his ruling on any given day. Its just parliamentary procedure to follow when you reach a point of disagreement and you don't think the position of the chair is valid or justified.

Sen. BRADLEY: Don't you agree with me that there are two different issues facing us in the situation you mentioned.

Let's say a majority wants a bill out of committee and wants to vote in favor of the bill. Does that alter the issue of the merits of that bill? The preliminary question that is procedural is the question of the ruling of the chair. What you're saying should be employed is to get the majority that wants to act on that bill to overrule the ruling of the chair on the procedural matter so it can get on to a substantive matter. What I am saying is that those are two different issues and that the majority of people might not feel the same way about those two different issues and shouldn't be forced to have to go through that kind of a vote which perhaps shows lack of confidence in the chair, in order to reach the merits of a particular measure.

Sen. DOWNING: I understand what you are saying but I don't agree with you.

Sen. SMITH: Senator, today we made a motion to continue for another day to adopt and amend the rules by simple majority. After that time, it takes a two-thirds vote, is that correct?

Sen. DOWNING: That is correct.

Sen. SMITH: It is fair to say that if the rules were adopted in such a manner that we could change them by a majority vote; in fact we would have no rules?

Sen. BRADLEY: Well, not quite, but your point is valid as far as it goes. But I don't take it you're suggesting that we ought to operate in general on a two-thirds vote.

Sen. BOSSIE: I am unequivocally opposed to Senator Bradley in this matter. In the four years that I have been here I haven't seen anything that I would call an abuse of this. Frankly, there is no bill that has passed in the four years that I have been here so good or so bad that it shouldn't have come out. I guess what I'd like to do right here is to ask the president to take a consensus of the senate as to the feeling for senator Bradley's proposal, rather than have him waste his valuable time tomorrow and ours too. I frankly don't know anyone who favors his position. I know how strongly he feels about it and has for years but I like it the way it is. I would like also, to take a consensus to see who would favor discussing it tomorrow, or the next legislative day.

Sen. JACOBSON: The chair would take it that you have made a parliamentary inquiry. In response to your parliamentary inquiry the chair would say that there is no precedent for this legislative assembly to take consensus, that all the actions are real. The chair would further continue that Senator Bradley under the adoption of the motion of Senator Monier has

the full opportunity to present on the floor an amendment. A vote can be taken thereon and then we would know in reality what the view is.

Recess

Out of Recess.

Sen. PRESTON: If I could just speak to Senator Bradley's viewpoint, I recognize there can be no consensus but I think if I were to be consistent after having time to reflect on this, about the right to know law and so forth, and the efforts people put into a particular bill that it deserves the right to be heard in the senate. Senator Rock indicated that some bills need further study. We have a method for doing just that. I can reflect my own feelings within a committee last year when I thought a bill should be heard but I couldn't get it out of committee. There may be times when, personally, it would be to my particular benefit that a two-thirds vote would be helpful to keep something from coming out of committee. I agree some of the legislation is frivolous but to be consistent with my strong feeling on the right to know and letting some fresh air into these proceedings, I highly endorse Senator Bradley's feelings on this.

Sen. ROCK: Senator Preston you referred twice to the right-to-know law, I assume you are familiar with the right to know law and how it pertains to the State of New Hampshire. Would you relate that to me statutorily at a committee hearing?

Sen. PRESTON: I think it is the philosophy of the right to know law to bring things out in the open. I don't mind debating things. If some senator saw fit to endorse a bill with my request or not, I don't think we should feel we have to refrain bringing it within this chamber to vote on it to recommend it for study. That's the reason I alluded to the right to know law.

Sen. ROCK: Does your understanding coincide with mine that each bill referred to the committee will have a public hearing in the light of day?

Sen. PRESTON: If I felt serious enough about sponsoring a piece of legislation, I think it should be heard by the public.

Sen. ROCK: Do you know of cases when bills have been referred to committee and have not had a hearing?

Sen. PRESTON: I can't think of any particular case.

Sen. ROCK: Then under the present procedures of the senate, if not specifically spelled out in the words of the rules, to your knowledge every bill that has been referred to a committee has at least had a hearing and those hearings are public and the light of day does shine upon the matter at least to that extent.

Sen. PRESTON: Yes, but you're cutting off one of the appendages in the process. We have to make a determination as elected senators and kindly disposing of a bill should not rest in the hands of a person or perhaps three persons of a committee.

Sen. ROCK: Then don't you believe that if that bill were of the kind of importance you are talking about and it had the public hearing, that it would be extremely difficult for a senator to sit on that bill?

Sen. PRESTON: I have had occasion to know differently senator.

Sen. FOLEY: Mr. President, the first term I was here, a house member came in to me about a bill concerning the number of chiropractors on the chiropractic commission. He asked if I wouldn't request to have it brought out. Not knowing any better, I got up and asked if the bill could be taken out of committee. I stood alone as the only person to vote to have it taken out. Afterwards, I asked what the matter was, I was told there is such a thing as senatorial courtesy and if the senate chairman wanted to keep the bill in nobody should ask him to take it out. I feel very strongly that if I work hard for a bill it should not be kept in committee because someone doesn't want it out on the floor. It might be a small bill, it might be a bad bill, it might be a good bill, but if I were a member of the house and I worked hard and got it out of the house and got it in here, I think we should have the courtesy to bring it out on the floor to discuss it and vote on it. I would be upset if I were in the house and I'd be just as upset if I were in the Senate and no bill came out. I think that if you are going to put in a bill; it should have an ending one way or another.

Sen. Monier offered the following amendment:

AMENDMENT

Amend Rule 39 by adding after the words "as it is prepared" the following: It shall require a two-thirds vote of

those senators present and voting to discharge from committee a bill not previously reported out by the committee.

Sen. MONIER: Mr. President, I think that we have heard this discussion before. I make no argument one way or the other. I voted against a recommendation to make it a majority vote then, and I would vote against it now. The committee structure is the backbone of legislation. If it is, then I think the committee and the committee chairmen have certain rights and certain authorities. If stripped of those authorities, why have the chairman or the committee? I would thoroughly agree that the most democratic way would be for all of us to sit in on the public hearings for all the bills and then we can all vote in an orderly fashion. I don't believe that the right to know law has a thing to do with it. I think that: 1) The public hearing is where you have all of the information brought out; 2) the executive sessions are usually held in open sessions unless they are voted into closed session. I don't really think that we are handicapping anyone. With 24 members, almost everyone here sits on more than one committee; almost everyone here is a chairman or a vice-chairman of a committee. We are stripping from chairmen the authority that we have supposedly established them for. With this amendment placed at the end of what is now printed, you would be voting to amend the whole thing. Let's resolve the question for the session of this biennium so that we don't get into these hassels at a future time.

Sen. BRADLEY: Sen. Monier, wouldn't you agree that a committee would still have a great deal of power and authority and responsibility, with a majority rule by reason of that committees study of a bill, gathering information about a bill and its ability to inform the senators about the bill? Don't you consider that a form of power and authority?

Sen. MONIER: I consider the priviledge of sitting as a chairman, or sitting on a committee an assemblance of power and authority. I wouldn't argue with you one way or the other. I do feel, however, that the rules of the senate on these kinds of things are always voted by a two-thirds vote. There has been a question by you as to whether precedent does establish it or not. I think a vote on this amendment will settle it once and for all and will drop the issue for the rest of the session.

Sen. BRADLEY: I agree with you. If we adopt this rule it will clear up the question of the chair's difficulty in ruling;

deciding what the correct precedent is. The question is: Do you have an idea how many bills have been killed in the time you and I have served in the senate by committees sitting on them?

Sen. MONIER: No, I do not. I know of three or four personally. I do not, by responding to your question, support your statement that there was an opinion of the precedent. I don't think there is an opinion, I think you have the right to do it. I don't think that's the issue. I think the issue is the structure of the committee and the structure of the authority of the committee chairmen.

Sen. Fennelly requested a Roll Call. Seconded by Senator Bossie.

The following Senators voted yes: Sens. Lamontagne, Poulsen, Smith, Gardner, Bergeron, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie, and Fennelly.

The following Senators voted no: Sens. Bradley, Trowbridge, Keeney, Hancock, Downing, Preston, and Foley.

16 yeas 7 nays

Adopted.

Amend Rule 27 of the Senate by striking out same and inserting in place thereof the following:

The standing committees of the Senate shall be divided into four divisions as follows: The Finance Division, which shall consist of the Committee on Finance, the Capital Budget Committee, the Committee on Education and the Committee on Public Institutions. The Government Operations Division which shall consist of the Committee on Executive Departments, Municipal and County Government; The Committee on Transportation, the Committee on Recreation and Development and the Committee on City Legislation. The Resources Division which shall consist of the Committee on Judiciary, the Committee on Ways and Means and the Committee on Environment. The Consumer Division which shall consist of the Committee on Banks, the Committee on Administrative Affairs and the Committee on Energy and Consumer

Affairs. The heads of these divisions shall coordinate the work of the various committees within their division. In addition, there shall be standing committees as follows: Interstate Cooperation, Rules and Resolutions, Journal and Enrolled Bills.

Amend Rule 39 of the Senate by striking out same and inserting in place thereof the following:

The committees shall promptly consider and report on all matters referred to them. The President may authorize such committees having a heavy load of investigation, redrafting, research or amendments to meet as needed on non-legislative days during the legislative session. *The Clerk of the Senate shall prepare a list by number, title and sponsor of all Senate bills and resolutions in committee which have not been acted upon within one week before the deadline established for the transfer of bills and resolutions from the Senate to the House of Representatives, and he shall distribute this list to every member of the Senate as soon as it is prepared.* It shall require a two-thirds vote of those senators present and voting to discharge from committee a bill not previously reported out by the committee.

Adopted.

Sen. Bradley spoke under rule 44.

Sen. Smith spoke under rule 44.

Sen. Monier spoke under rule 44.

“It becomes rather obvious that the Feds are inflating unemployment rates for their own purposes—and are therefor quite concerned with the more honest unemployment rates shown by New Hampshire’s procedures. The current so-called 70 step formula used by New Hampshire is a procedure approved and authorized by the Federal Government in 1950—a fact they neglected to mention in their blast at our statistics. The new procedure that the Feds have devised was authorized in October 1976 to go into effect in January, 1977.”

“A very quick look at what the Feds are attempting to do could be easily translated into ‘DOUBLETALK’ to bolster their desire to accomodate fiscally insolvent

states to make them eligible for more EDA funds. A better way to describe it," continues Monier. "Is a con-artist dishonesty fostered upon the taxpayers and working citizens of our nation."

"10% is the magic unemployment number for the additional EDA funds. Once a state or municipality or region has made this magic number the insolvent government can be helped by the Federal Bureaucrats with additional taxpayers monies".

"Let me use one simple example: "Using the 70 step procedure, Massachusetts would have an 8.7% unemployment—but with the new statistical estimate procedure for a sample—which no one knows composed—Massachusetts' rate is 10%. New York, that great spending state that is practically bankrupt, under the 70 step process would have had a 9.4% unemployment rate but the magic number of 10.3% has been reached—thus alleviating some of their fiscal woes at our expense—with the higher unemployment percentage under the new statistical gobbledegook. New Jersey is another one that fits this pattern".

"The utter foolishness of complaining about New Hampshire's low unemployment rate—because it affects the bureaucrats desires in Washington to help bail out insolvent and unstable fiscal governments in other areas—is clearly shown when one compares last July and August unemployment numbers in New Hampshire using the two systems. Watch this—under New Hampshire's system in July there was approximately 18,500 unemployed, and, in August this DECREASED to approximately 13,500: But using the new Federal system of estimation, July's unemployment was approximately 25,000, but low and behold, in August it increased to 32,000".

"This kind of federal nonsense is the kind of action that we as representatives of local taxpayers must constantly bring to light. It shows what we have reaped in the last twenty-five years of federal encroachment upon the state's procedures, concerns and sovereignty. I feel strongly that the federal government ought to keep its nose out of our business and should be complementing our low unemployment rate—due to our individualistic approaches to economic concerns—rather than chastising

us because we don't fit their desired pattern. In short, mind your own business''.

Sen. Healy spoke under rule 44.

Sen. Trowbridge spoke under rule 44.

Recess.

Out of Recess.

INTRODUCTION OF SENATE BILLS

Senator Sanborn moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 25-42 inclusive plus CACR 8 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein committees.

SB 25, relative to sweepstakes commission funds. (Rock of Dist. 12—To Ways and Means)

SB 26, authorizing state employees' participation in the present incentive award program for selling sweepstakes tickets. (Rock of Dist. 12—To Ways and Means)

SB 27, revising the occupational regulations relating to barbering. (Rock of Dist. 12—To Public Institutions)

SB 28, establishing the Lamson Farm commission in Mount Vernon. (Rock of Dist. 12—To Executive Departments, Municipal and County Government)

SB 29, increasing the tax exemption on income from \$600 to \$750. (Downing of Dist. 22—To Ways and Means)

SB 30, enabling the Souhegan Regional Landfill District to create a capital reserve fund. (Rock of Dist. 12—To Executive Departments, Municipal and County Government)

SB 31, relative to the form and use of walking disability identification on motor vehicles. (Downing of Dist. 22—To Transportation)

SB 32, establishing a board of hearing aid specialists to license hearing aid specialists and making an appropriation therefor. (Jacobson of Dist. 7—To Public Institutions)

SB 33, relative to the duties and responsibilities of the property appraisal division of the department of revenue administration. (Jacobson of Dist. 7—To Administrative Affairs)

SB 34, relative to the object of detailed financial accounts in annual town reports. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

SB 35, relative to the incompatibility of certain town of-

fices. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

SB 36, relative to the town budget of non-municipal budget act towns. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

SB 37, authorizing the acquisition of land for fish and wildlife areas and making an appropriation therefor. (Jacobson of Dist. 7—To Recreation and Development)

SB 38, revising various provisions of the interest and dividends tax. (Jacobson of Dist. 7—To Ways and Means)

SB 39, requiring the mailing of resident tax bills within 30 days of the receipt of the tax warrant by the tax collector. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

SB 40, repealing certain provisions currently included on tangible property inventory blanks. (Jacobson of Dist. 7—To Ways and Means)

SB 41, relative to the deposit of state funds in approved banks. (Trowbridge of Dist. 11—To Banks)

SB 42, establishing a judicial selection commission to recommend at least 3 candidates for all judicial appointments. (Jacobson of Dist. 7—To Judiciary)

CACR 8, Relating to: The Trial of Crimes. Providing that: District Courts May Try Crimes in a County Other than the County in which the Crime is Committed. (Sen. Jacobson of Dist. 7—To Judiciary).

Adopted.

INTRODUCTION OF SENATE CONCURRENT RESOLUTION

Senate Concurrent Resolution No. 1

in opposition to the action of President Carter in pardoning the draft evaders. Referred to the rules committee.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday at 1:00 p.m.

Adopted.

Late Session

Sen. Trowbridge moved to adjourn at 4:45 until Tuesday at 1:00 p.m.

Adopted.

Tuesday, 1 February 77

The Senate met at 1:00 p.m.

A quorum was present.

The Prayer was offered by guest chaplain Captain, Joseph L. DiMichael.

Thank you Lord, for inviting us to share in a relationship with Yourself which means You are no longer a distant Stranger but an intimate Friend. Help us to respond worthily to such love. We thank you for calling us into the fellowship of the Spirit. Help us to value moments of shared experience, whether in the home or in the public meeting place. May we all be willing to give and receive wholeheartedly so that the help we give each other may be the strength that comes from you. Lord, give protection to all those who suffer innocently because men try to solve their problems by mass violence. Comfort the bereaved, shelter the homeless, bring healing to the sick and give hope to the despairing. Forgive men the selfishness that results in war and lead us all into Your kingdom of Peace. May our allegiance to You always be an open secret. Help us to make everything we do and say today an offering of gratitude to You.

Amen.

Senator Monier led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

The Senate President presented a resolution to the guest chaplain, Captain, Joseph L. DiMichael.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 43-49 and 51-53 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 43, relative to security deposits on real property. (Downing of Dist. 22—To Banks)

SB 44, relative to the financial security of horse and dog race licensees. (Downing of Dist. 22—To Ways and Means)

SB 45, requiring the state to provide for access roads in certain cases. (Sanborn of Dist. 17—To Transportation)

SB 46, relative to a planning board's procedure on final plats. (Monier of Dist. 9—To Executive Departments, Municipal and County Government)

SB 47, providing for payment of a claim to Clayton F. Osborne and making an appropriation therefor. (Lamontagne of Dist. 1—To Finance)

SB 48, forbidding entertainers less than 18 years of age from working in places where liquor or beverage is sold. (Rock of Dist. 12—To Administrative Affairs)

SB 49, exempting certain vehicles from the motor vehicle title law. (Lamontagne of Dist. 1—To Transportation)

SB 51, relative to the hours of operation of state liquor stores on days preceding certain holidays and on Sundays. (Bergeron of Dist. 6—To Administrative Affairs)

SB 52, relative to a transfer of classification in the New Hampshire retirement system by a member with more than 25 years service. (Lamontagne of Dist. 1—To Finance)

SB 53, relative to vanpooling. (Monier of Dist. 9—To Transportation)

HOUSE MESSAGES HOUSE CONCURRENCE

SB 9, legalizing a special meeting of the town of Peterborough.

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 33, 47, 61, 54, 13, 10, 84, 92 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 33, repealing the statute relevant to reinstatement of World War II veterans' licenses. To Transportation.

HB 47, establishing a fourth New Hampshire song and providing for the designation of an official New Hampshire song. To Recreation.

HB 61, providing for payment of a claim to Cpl./Tech, Henry P. Paris, Jr., New Hampshire state police and making an appropriation therefor. To Finance.

HB 54, relative to the administrative procedures act. To Administrative Affairs.

HB 13, establishing a hunting season for the taking of foxes and classifying the fox as a fur-bearing animal. To Recreation.

HB 10, establishing an age limitation for deputies and special deputies appointed by sheriffs. To Executive Departments.

HB 84, relative to temporary loans issued under the municipal finance act. To Executive Departments.

HB 92, legalizing a special town meeting in Pittsfield. To Executive Departments.

ENROLLED BILLS REPORT

SB 9, legalizing a special meeting of the town of Peterborough. Senator Lamontagne for the Committee.

COMMITTEE REPORTS

SB 11, an act relative to a short form mortgage or deed of trust. Ought to pass. Senator Poulsen for the Committee on Banks.

Sen. POULSEN: This bill is one that we passed last time and I think it was killed in the House. There is no reason why it wouldn't pass in the House. The bill legalize a short form of

mortgage that saves a tremendous amount of repetition and paper work. Deeds that have long covenants some of the federal agencies, federal home loan and such, repeated over and over again. This type of deed files the covenants once with the county registrar of deeds. From then on the ordinary form deed is used with reference to the filed covenants. It saves doing that step by step on each deed. It saves a tremendous amount of paperwork, and the information is all still there in the register of deeds. It should pass and I hope it does.

Sen. BRADLEY: Did your committee get any input from the registrars of deeds?

Sen. POULSEN: No. There was no one who spoke against it.

Adopted. Ordered to a third reading.

SB 6, providing for a power of attorney which survives disability or incompetence of the principal. Ought to pass. Senator Bradley for the Committee.

Sen. BRADLEY: This bill would create for the State of New Hampshire the so called durable power of attorney. This is a concept which has come into some acceptability and vogue in one or two other states. The purpose of this provision comes about because of the existing legal doctrine which says that when you give someone the power of attorney and you then become disabled, or mentally incompetent, that the power of attorney, and therefor the ability of your agent to act, is automatically revoked by action of law. This leads to several problems. One, is the problem of when do you cross the line, and how does it get proved, which is a very cumbersome thing. The other problem is that the principal reason why people typically establish a power of attorney and this is more commonly than not done in a family setting where spouses give them to each other, is to take care of the very problem of disability and incompetence, being laid up in the hospital and the like. So all this bill does is: if you want a durable power of attorney in the State of New Hampshire, you can create one by choice by saying in your instrument that you want it to survive your disability or incompetence. The magic words being set forth in the statute, or anything that approximates them. If you don't want a durable power of attorney, if you want the old fashioned power of attorney you

don't put the language in. We are just adding another tool for people to use in the area of estate planning. No opposition was expressed to the bill that I know of.

Sen. BOSSIE: I rise to speak in favor of SB6. I think it would be very useful to those in the business community who have to deal with individuals who possess powers of attorney. At the present time if one goes into the bank with a bankbook, and a power of attorney to withdraw some of the funds of that account a bank sometimes is very skeptical about it. If this goes into effect, the bank could rely on that power of attorney because of that fact that if it were revoked, they would be notified. So I think this would be excellent, and a very proper bill.

Sen. MONIER: Does this affect the possibility of a family losing its power of attorney for an elderly person who is incapacitated?

Sen. BOSSIE: Yes, it would be very useful in that manner. Normally in the law what would happen is if one were to be elderly and did not want to continue with his own affairs, you have several alternatives. One of which is to have a guardianship of an incompetent person. Say one has an elderly grandmother who is 96 years old and is unable to run her own affairs. He would have 2 or 3 doctors certify that she is incapacitated. Other than that it would be the appointment of a conservator who would be given powers by the individual who is elderly, and who has his/her mind together. The cheapest way to do it is to have a power of attorney in which you can say to your son, "Here, you run my affairs." That does not mean a thing, they don't have to account. They have to account to the person for whom the power of attorney is given. This is a good way, and a way that many people prefer. If you don't trust the person that you would give the power of attorney to, then you'd definitely go to the courts and get a conservatorship or guardianship.

Sen. LAMONTAGNE: I've been appointed by the court to take care of a person who is not able to make any decisions for himself. The matter arose that he had to have a leg removed and therefore I had to sign on his behalf. What is the difference between the changes we propose now, the law that we now have?

Sen. BRADLEY: This bill would not affect the situation you describe at all. This does not change the existing law with respect to the guardianship or conservatorship. I assume that

you are one or the other. The court is involved in that. You get your appointment from the court and the court has continuing supervision of that kind of setup. You probably have broader powers than one would typically have under a power of attorney. Under power of attorney you don't need to go to court. You can just designate someone as your power of attorney. It may only be for some limited purpose, for example a very common form of a power of attorney is so called stock power where you give someone the power to transfer stock for you or it might be the power to sell your house. But its a private thing not under court supervision. We already have powers of attorney on the books. Unfortunately, in some cases you want the thing to last despite the fact that the person who gave the power of attorney becomes incompetent. So if you want your wife to have the power to sell your house, even if you become incompetent, you can give her this kind of power of attorney which will be durable, will last beyond the incompetence.

Sen. LAMONTAGNE: Let's say this power of attorney involves the signature of a social security check. Will the person who has the power of attorney have to make a report to social security?

Sen. BRADLEY: Not necessarily, it's like a private trust in that sense. It's not under automatic supervision of the court and it's not automatically required. If the thing develops, as it may in some cases, into a guardianship or conservatorship as Senator Bossie described, then there would have to be an accounting to that person. It would typically be the same person and he would have to account for what he'd done under the power of attorney. Also, if the person died, the executor could, under general principles, call upon the person to account what had happened. Say one son has the power of attorney and the other son thinks something fishy is going on, he would have the power to go in and ask for an accounting. The accounting wouldn't occur automatically. There would have to be something that would trigger it.

Sen. LAMONTAGNE: So a person would have to be competent in order to be able to give that power of attorney.

Sen. BRADLEY: That's right. That's a very good point which I should have made clear. This is the thing all of us could do to choose our own conservator and not wait until we are incompetent and have the court do it for us.

Adopted. Ordered to a third reading.

SB 18, relative to nonprofit organizations and the meals and rooms tax. Inexpedient to Legislate. Senator Fennelly for the Committee.

Sen. FENNELLY: **SB 18** is the same bill sponsored by Senator Sanborn last session. The reason, and all of the committee agreed on this, why it came out inexpedient is the loss of revenue to the State. Mr. Comstock came before the committee and testified that if it were passed the loss would be in excess of \$600,000. At this particular time the State cannot afford that loss in revenue.

Sen. SANBORN: Isn't it true that at the last session we passed the Vietnam Bonus Bill and this would be paid out of this same area as this bill.

Sen. FENNELLY: That is correct. Mr. Comstock testified that a portion of the Vietnam Bonus is funded by the room and meals tax from nonprofit organizations.

Sen. LAMONTAGNE: I rise to support my bill. I'd like to mention to the members of the senate that I have introduced this bill for the Club Association throughout the whole State of New Hampshire. I was very, very surprised to find that not even one member of the Clubs was there. I was there all by myself, so I'm not going to say that I am either for or against the bill at this time.

Adopted.

Sen. Rock offered the following amendment to the Senate Rules.

AMENDMENT

Amend Rule 27 of the Senate by striking out same and inserting in place thereof the following:

The standing committees of the Senate shall be divided into four divisions as follows: The Finance Division, which shall consist of the Committee on Finance, the Capital Budget Committee, the Committee on Education and the Committee on Public Institutions. The Government Operations Division which shall consist of the Committee on Executive Depart-

ments, Municipal and County Government; the Committee on Transportation, the Committee on Recreation and Development and the Committee on Cities Legislation. The Resources Division which shall consist of the Committee on Judiciary, the Committee on Ways and Means and the Committee on Environment. The Consumer Division which shall consist of the Committee on Banks, the Committee on Insurance, the Committee on Administrative Affairs and the Committee on Energy and Consumer Affairs. The heads of these divisions shall coordinate the work of the various committees within their division. In addition, there shall be standing committees as follows: Interstate Cooperation, Rules and Resolutions, Journal and Enrolled Bills.

Adopted.

Sen. Rock offered an amendment to the rules of the Senate by adding Rule 45.

Sen. ROCK: It was brought to the attention of the rules committee by the chairman of the finance committee that the Senate indeed had its house in order, it was not in session, requiring the two signatures. It is a check and balance measure. However, the rules did not provide for the check and balance or the two signature method when the senate was in session. This would be a logical extension into when we meet in session and would be acceptable certainly to a majority of the Senate. We did discuss it with the senate president and he is in concurrence.

Sen. BRADLEY: When I make a long distance telephone call on the Senate phone, am I contracting for anything within the meaning of this rule?

Sen. ROCK: I am not that familiar with this, but if you made a long distance call within the State on the watts line and that long distance call was put through the watts system in the State of New Hampshire it would be very difficult to trace your placing the call. I think that would be in the role of senate duties and certainly would not fall within the preview of this. However, if you went to someone elses office and made a long distance call outside the senate, outside the state, and it was charged to that phone, I suppose it does appear on a manifest as a long distance call and it has to be approved by somebody. That somebody, if we are not in session, would be the senate

president and chairman of the finance committee. If we were in session, it would only be the senate president. Rule 45 changes that so the finance chairman would also approve that expenditure.

Sen. TROWBRIDGE: There are two parts to this. The senate president authorizes the expenditure, saying this is a legitimate expenditure. What we do in Senate Finance is to certify that there is money to pay for it, which is another essential element in the transaction. What we really are doing is keeping a running balance on the senate finance budget. That is really what is missing during the session. We picked up this language from the house rule. Unfortunately, I quite agree with Senator Bradley that it is badly drafted because obviously you're not going to first secure the provision. What you are going to do is get ratification some way of accounting for who's spending what. It would be my intention that we do not require prior approval, just require approval at some point in the process to ratify the transaction.

Sen. PRESIDENT: The Chair would state when it comes to the purchase of some item, that it is in fact required. In the instance of the telephone calls it would be the responsibility of the members of the senate to make those calls that are necessary for the business of the senate.

Sen. TROWBRIDGE: Yes indeed. We thought we would go to Harrisburg to the committee meeting on Sunset laws. I asked for, and got, prior permission. I think everybody can sensibly see what this is about.

Sen. BRADLEY: It does occur to me that as senators we ought to have the general power to make phone calls on senate business. What I am questioning is what is senate business? I am wondering if it wouldn't be appropriate at some time Mr. President, that we have a little better guideline perhaps than we have in the past as to what phone calls one can legitimately consider as senate business and which ones one can't. For example, when I call my wife to tell her I'm coming home for supper is that senate business? If my office calls me on something which turns out not to be a case I'm working on, is that senate business? If somebody I don't know calls me and I return the call, again, it turns out not to be senate business, is that senate business?

Sen. JACOBSON: In response to your inquiry, the policy of the office of the Senate President is this: phone calls within the state should be made on the watts lines that are available

to the senate. We have two of them here on the senate floor and if you want to call your wife or anyone else in the state you are entitled to. One problem that the comptrollers pointed out to me is the use of making long distance phone calls over the centrix, which then becomes a second charge. We are charged for every phone on the watts line on the centrix, so if you cannot get the phone here, you can get the centrix watts line. So we have two alternatives but in the memo from the Comptrollers office, that was one of the problems that showed up, not only here, but throughout the various agencies. With respect to out-of-state phone calls, they should be clearly senate business. If they are senate business and if you say they are senate business, the Senate President will take your word for it. There will be pads provided in every senate office. When I look over the manifest and I see a phone call to Atlanta Georgia, then I go to check whether or not that phone call has been made and the person has declared it to be State business. I don't think this is at issue for the phone calls in here because, when the phone bills come through, then both the senate finance chairman and myself have to sign it. I, approving it, and he, ratifying it, it can be paid.

Sen. Downing offered the following amendment to the proposed Senate rule.

AMENDMENT

Amend proposed Rule 45 of the Senate by striking out the words "first securing" after the words "requisition or manifest without. . ."

Sen. DOWNING: Relative to this recommended change if the two words in the second line from the bottom "first securing" were deleted, wouldn't this rule then be in keeping with the present practice and what it is intended to accomplish?

Sen. TROWBRIDGE: I'd like to say that I welcome the amendment. Everybody is responsible if he does something that isn't approved.

Adopted.

Rule 45. No officer or employee of the Senate during the session or any adjournment thereof shall purchase or contract

for the purchase, pay or promise to pay any sum of money on behalf of the Senate or issue any requisition or manifest without the approval of the Senate President and the Chairman of the Finance Committee.

Adopted.

Senator Bradley moved an amendment to Rule 39.

Sen. BRADLEY: The last time we met on this we added a sentence which required the clerk of the senate to prepare a list by title number, and sponsor of all senate bills before the transfer date. I think it is a good rule and, as you know, I wanted something further than that, but I think this is a step in the right direction. It occurs to me that the senate should not be making this kind of distinction between senate bills and house bills that we really ought to give equal respect and statute to all the bills which come before us and get referred to committee. Therefore, the amendment I am proposing is to strike the word "senate" and just say "all bills and resolutions" in committee that don't get acted on within five days of the deadline or one week of the deadline, will be reported out to the senate so we will know those bills both before the transfer date and before the final date for acting on house bills.

Sen. ROCK: On page 44 of the Senate Journal of January 18 you will find the committee amendment which was recommended and approved by the senate on that date. Mr. President, I rise in opposition to the proposed amendment and I do so for two reasons. The first reason is that the committee considered this possibility exactly as senator Bradley is proposing it as a further amendment to the senate rules. The reason that the committee recommended not including the wording that senator Bradley is proposing is due to the tremendous difficulty this would cause the clerk of the senate. During the changeover days, the tremendous number of bills that are turned over is a real problem. We felt with the crunch that is on at that time, to have this list backed up another week, would mean you would only have approximately one week to act on the bills and publish the list. That would be my first reason for opposing it. The second reason is I've seen reasons for wanting to give extra study, consideration and deliberation to bills coming out of the house. It's extremely difficult to

conduct our senate business with house members waiting outside the door to know what you haven't reported the bill out as yet. For those two reasons I would oppose the amendment.

Sen. PRESTON: Mr. President as I supported senator Bradley last week, I think this is a courtesy due the house members and the constituents. I have very strong feelings that we should report out all of the bills and their sponsors and at least make the list known. I would expect that courtesy in the house and I would certainly not fear giving the members of the house the same courtesy .

Sen. MONIER: I'd like to arise in opposition. If we wind up with this listing and its very extensive, I'm concerned, that we are going to find ourselves in the last few days besieged by a whole horde of people from the house who are going to want to know what happened to their bills. I just wonder if this is necessary on top of the time shortage and the crunch we get into in the last few days.

Sen. LAMONTAGNE: Mr. President, if we adopt this amendment I'm afraid we will be getting ourselves into a problem. I assume that if this amendment does pass and we have an emergency its going to be impossible to scratch the title of the bill and just use the number.

Sen. HANCOCK: Senator Monier, aren't house members entitled to know what happened to their bills regardless of the inconvenience it might cause the members of the senate?

Sen. MONIER: They certainly are Senator Hancock and I'm sure that they will follow them themselves. I think my point is not the argument about whether they should be knowing what happened to their bill; It's a matter of trying to post a listing for them. I think we are letting ourselves in for some real problems. There are 400 of them and 24 of us. If we have to take on the additional task of each one of them coming to us, from a listing of this nature and trying to respond to their questions at that time, rather than taking action on the floor, then you're just letting yourself in for some administrative headaches.

Sen. HANCOCK: Then wouldn't it be a practical and an expedient measure to have the clerk prepare that list as Senator Bradley suggests?

Sen. MONIER: I think not an expedient measure. I think it would be a matter of courtesy; but I think they know where the bills are and they find them, just the same as we do.

Sen. BERGERON: Senator, have you inquired or dis-

cussed this matter with the clerk of the Senate?

Sen. BRADLEY: No. But it did occur to me that that would be an appropriate inquiry for me to make.

Sen. BERGERON: Senator you've been around in past sessions with the hub-bub of what goes on in the final crunch. Is it possible that with the staffing we have that this may be completely and totally impractical?

Sen. BRADLEY: I don't think that we act on that many more house bills than we do senate bills. So I'm assuming that it is a manageable task.

Sen. BERGERON: If in fact you say that we don't act on that many more house bills than we do senate bills; in essence what you're saying is the workload on the clerks office is still twice as great.

Sen. BRADLEY: Not at the same time. The crossover dates and deadline dates come at different times with a fair amount of time in between them. I wanted to inquire of the chair and through the chair to the clerk whether or not this proposal would be unworkable administratively.

The Chair would state he has not consulted with the clerk although I would say that if the burden was imposed upon him he is capable and able to handle it.

Sen. LAMONTAGNE: According to this rule, wouldn't you feel the house members would hold back senate bills waiting to see whether or not their bill would be going by? Do you feel that would be a problem?

Sen. BRADLEY: No I don't see that as a problem. All we are asking to have done here, both for our own bills and house bills is that somebody, before it's too late, finds out what all the bills are that haven't been acted on. If it's your own bill you have an interest in, you can go to the committee and say "are you holding a hearing? What do you propose to do about it?" Now, if one is astute enough, he can keep track of this for himself: My own experience has been that I have not been able to keep track of all the bills that I'm interested in. All I am really asking for is that we have a systematic collection of bills that are not acted upon one week before the deadline. I don't see that this gives anybody the ability to play games between the house and senate. I don't see that at all.

Sen. LAMONTAGNE: Wouldn't you think that somebody's senate bill is going to be held up in the house waiting to see if their bill is going to be passed within that five days?

Sen. BRADLEY: Well all I can say in answer to that is if

somebody is anxious to play that kind of game it ought to be out in the open. We ought to know where we stand and I just feel we don't know as we approach those crunch days.

Sen. TROWBRIDGE: Sen Bradley, are you aware of the computer terminal out here? You can find out in 10 seconds the status of any bill and any time. Doesn't that satisfy you?

Sen. BRADLEY: The problem is not if you know the bill you concerned with. The problem that I have is that I may have an interest in 15 or 20 house bills that I assume are going to go along in the normal fashion have an hearing, have an executive session and come up on the floor for action. But the deadline arrives and I find out that some of those bills never saw the light of day. What I am trying to get is a list one week in advance so that you can have a look at it and know the bills that haven't been acted upon yet and you can find out then if you have an interest. If they had a hearing you can go to the chairman and find out whether they're going to have the executive session and why not. I'm looking for a different thing rather than the status of individual bills which I agree you can get from the computer.

Sen. TROWBRIDGE: One further question. I can't see any difference in what you say if you know the number of the bill, which I assume you have to know. If you have 20 bills, you have to know the number five days before the deadline. You can come up here and punch in and you will know at that moment the status. Unless you want a list of all bills in case you missed one? If you know the number of the bill and you know what you're following then can't you use the terminal. It's available to the house member as well, so he can go to his terminal and punch in and discover where his house bill is. Maybe what we need is an educational program as to how to use the terminal.

Sen. BRADLEY: I think there is a difference between being able to go to the computer and find out about a specific bill and having it published and out for all of us to see. Maybe with the computer and maybe its no work at all for the clerk. That seems to me a very different thing going down the list, rather than trying to remember the 20 or 30 or how many you may be concerned about.

Sen. SMITH: Mr. President, does not the clerks office keep a tally which is available to every member of the senate of the number of bills in each committee and the ones which have had hearings held, and ones which still need executive action?

Is this list not prepared weekly so that any member of the senate could see how many bills are in committee.

Sen. JACOBSON: That is a practice of the clerk's office. A weekly report is given to every member of the senate who wishes one and, as I recall, it is put on every senators desk as to the number of bills that remain in each committee. Furthermore, the chair would also state that there is a printout that comes to my office and can be seen by anybody and any time.

Motion failed.

(Senators Foley and Hancock voted in favor of the amendment.)

Senator Bradley moved an amendment to Rule 22.

Sen. BRADLEY: This is an amendment which is very simple in concept. Senate rule 22 as it presently reads simply says that a hearing will be held upon each bill referred to a committee and notice of such hearing shall be advertised for at least 2 legislative days in the journal of the senate. I want to add the further proviso "and, given to the news media by noon of the Friday preceding the day of the hearing." This is an amendment which I did propose to the rules committee which the rules committee did not find fit to recommend. The purpose here, I think is quite obvious and to some extent I understand it is the policy of the chair to attempt to live by this particular rule. Under our existing rules you can put a notice in the calendar on Wednesday, again on Thursday, hold a hearing on Thursday morning. That Wednesday calendar will probably not get to anybody outside of the state house until sometime later Thursday, at the earliest, after you have held the hearing. What we are really saying is that we've got a rule that allows no hearing to the average general public. It seems to me that we ought to be able to organize ourselves in a way which requires us to get notice of our hearings out into the general public through the news media by the weekend before we intend to hold a hearing. There may come a time during the session when that is going to present a bind; and my answer to that is that when that time comes, I think the person who is feeling the bind should get up and state his case and ask to have this particular rule waived. If its a good enough case, I'm

sure the rule would get waived. I think it's a good enough thing that we ought to go beyond the policy and the practice which can be sort of ignored when we want to ignore it and put it in the rules and tell the world that we mean business by it and we're going to live by it.

Sen. SANBORN: Senator, we have adopted rule 39 and I believe in there it said that if a committee has sufficient workload etc., etc., that the committee can hold hearings on non-legislative days. I take EDNA as a heavy workload committee. They're here on Tuesday and they see they have 20-30 bills ahead of them and they schedule those for Friday. How are we going to live by this rule if we don't give the information relative to a hearing before Friday?

Sen. BRADLEY: Well, what I am saying is if you've got a big batch of bills on a Tuesday and you want to start scheduling hearings. The earliest you can schedule hearings under this rule is the following Monday or typically the following Tuesday. The idea being that the public ought to be able to look in the paper at least by the weekend and see what bills we are going to hear the following week. If you tell me on Tuesday that you are going to schedule bills for Friday, I'm telling you that word is not going to get out to the average person who might take an interest in the hearing dates.

Sen. SANBORN: Senator, I've noted that during the May-June period we get an extensive number of bills from the house. Some of them are ready on Tuesday and if a committee is pretty well loaded will start offering hearings on the following Friday. The media that we have present here every day seems to be very well versed in getting a list of those bills in their papers on Wednesday and Thursday. Do you remember a time when that has not happened?

Sen. BRADLEY: Well, I'm not suggesting that if you put out the hearing schedule on Tuesday that it probably wouldn't get into the paper by Thursday or maybe Wednesday. All I am saying is that I don't think that is very reasonable notice. It seems to me that the general citizenry should be able to have a look before the weekend as to what things are coming up and shouldn't have to on Wednesday or Thursday try to rearrange their schedule so they can get here on a Friday.

Sen. SANBORN: What you are saying is that you want to give the public at least one week's notice instead of the two days?

Sen. BRADLEY: It might be only two or three days notice

but it would be weekend notice which seems to me to be the significant thing so that you can look at the whole week at one time.

Sen. SAGGIOTES: Did you state that when the work load gets heavy toward the end of the session that we would suspend this rule?

Sen. BRADLEY: Yes, as any rule and if someone has a good case and we are in the crunch and we have got some bills that were referred to us on a Tuesday and in order to act on them you have got to have a hearing on Thursday. It seems to me that a rule suspension would be in order. Just the way it is now when we find we cannot meet the two day deadline or we can't make the publishing of the report deadline.

Sen. SAGGIOTES: Believe me Senator, I think this is a very excellent idea. Wouldn't you agree with me that possibly when the public hearing is on Thursday, wouldn't you think that that might pose a problem getting used to seeing the hearings advertised on the Friday before the week that the hearings are going to be held and then we proceed to suspend the rules on the following Tuesday, for instance, and we hold the hearing on the Thursday. Wouldn't you think that that might pose a problem?

Sen. BRADLEY: It seems to me the public can't help but to be better off and they wouldn't be any more thrown off then they must be now when we suspend the two day requirement. . . .

Sen. SAGGIOTES: Don't you think that without this kind of a rule where they are expecting to see advertising on Friday, they would be less alert the first part of the week.

Sen. BRADLEY: I don't think we ought to expect the general citizenry to be as alert as we expect them to be now.

Sen. ROCK: Mr. President, I must rise in opposition to the amendment from the senator in the 5th district. The committee did indeed consider this amendment in its public hearing and because of the nature of the amendment the committee went to the President and discussed this possible amendment with the President. I must say that the committee at that time was confident with the new administrative procedures that the President intended to install and in fact since then has installed. That is doing exactly what the senator from the 5th district is asking for in his amendment to the senate rules. I might add that last night in the Concord Monitor on page 2 there was a complete outline of all the hearings and bills to be

heard throughout the entire week here in Concord. I think that is the kind of effort the senator is working towards and I would like to at this time commend the President for the effort he has made in this direction. I would rather see this procedure continued administratively when the problem that Senator Saggiotes and Senator Sanborn have brought to us. We would not then have to stand the scrutiny and criticism of waving our rules. I'd make one further commitment to the senator from the 5th district. If at any time I see that this administrative procedure is subject to sabotage I would work diligently with him to get the necessary two thirds at that time to change the rule so that that does not happen. But for the present time, as chairman of the rules committee, I'm confident that the procedure the President has developed is working well and will continue to be to the best advantage of the senate.

Motion failed.

Senator Downing moved that the rules of the Senate be so far suspended as to allow **SB 11** and **SB 6** to be read a third time at the present time.

Adopted.

Third Reading and Final Passage

SB 11, relative to a short form mortgage or deed of trust.

Adopted.

SB 6, providing for a power of attorney which survives disability or incompetence of the principal.

Adopted.

Sen. Bradley spoke under rule 44.

Sen. Healy spoke under rule 44.

Recess.

Out of Recess.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 74, 6, and 32 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 74, reimbursing the North Conway fire department for search and rescue operations and making an appropriation therefor. To Finance.

HB 6, granting reciprocity to certain licensed cosmetologists from other jurisdictions, if that jurisdiction participates in national testing. To Public Institutions.

HB 32, relative to the duties of the director of mental health in regard to community mental health programs. To Public Institutions.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 54-69 inclusive and SJR 1 and SJR 2 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 54, relative to utility collection practices and termination of utility service for nonpayment of charges. (Bossie of Dist. 20—To Energy and Consumer Affairs)

SB 55, providing injured employees with an attorney upon the commencement of workmen's compensation proceedings. (Bossie of Dist. 20; Fennelly of Dist. 21—To Judiciary)

SB 56, establishing an adoptive care act. (Blaisdell of Dist.

10; Smith of Dist. 3; Saggiotes of Dist. 8; Bradley of Dist. 5—To Public Institutions)

SB 57, making an automobile to the value of \$2000 exempt from attachment and execution. (Hancock of Dist. 15—To Judiciary)

SB 58, relative to the rule-making powers of the weights and measures division of the department of agriculture. (Bradley of Dist. 5—To Administrative Affairs)

SB 59, relative to cease and desist orders issued by the water supply and pollution control commission. (Keeney of Dist. 14—To Environment)

SB 60, extending the deer season for muzzle-loaders under certain conditions. (Keeney of Dist. 14—To Recreation and Development)

SB 61, relative to the treatment of juveniles as adults in criminal cases. (Bossie of Dist. 20—To Judiciary)

SB 62, relative to maintenance of bridges on class II highways. (Sanborn of Dist. 17—Rep. King of Rockingham Dist. 1—To Transportation)

SB 63, relative to real estate tax lien for the elderly or disabled. (Keeney of Dist. 14—To Ways and Means)

SB 64, relative to homestead rights for mobile home owners. (Hancock of Dist. 15—To Ways and Means)

SB 65, relative to requiring certain information to be included in correspondence from state agencies. (Bossie of Dist. 20—To Executive Departments, Municipal and County Government)

SB 66, relative to collateral for small loans. (Hancock of Dist. 15—To Banks)

SB 67, increasing the daily salary of a special justice from \$50 to \$85. (Bossie of Dist. 20—To Executive Departments, Municipal and County Government)

SB 68, relative to notice filing in registries of deeds to show power of trustee to convey real estate. (Monier of Dist. 9; Bossie of Dist. 20—To Judiciary)

SB 69, relative to members of a budget committee established under the municipal budget law. (Jacobson of Dist. 7; Rep. Perkins of Hillsborough Dist. 8; Rep. Callahan of Cheshire Dist. 2—To Executive Departments, Municipal and County Government)

SJR 1, establishing a committee to study the feasibility of quarter horse race meets running concurrently with thoroughbred race meets and making an appropriation there-

for. (Bossie of Dist. 20—To Ways and Means)

SJR 2, relative to retirement credits for Mary G. Bernier.
(Provost of Dist. 18; Sanborn of Dist. 17—To Finance)

Senator Provost moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time and that when we adjourn, we adjourn until Tuesday at 3:00 p.m.

Adopted.

Late Session

Senator Smith moved to adjourn until Tuesday at 3:00 p.m.

Adopted.

Tuesday, Feb 8

The Senate met at 3:00 p.m.

A quorum was present.

The Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Without Thee Lord—we are powerless to do anything which is good. We are oftentimes with feet of clay and fall very easily from the pedestal upon which we have placed ourselves, before the people.

May we with Thy help, Lord, overcome the weaknesses and frailties your human nature and do those things of the spirit—which are so much needed for the advancement, not only of ourselves, but also for those whom have placed their host in us.

Amen

Senator Poulsen led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 70-72 shall be by this resolution read a first and second time by the therein listed titles, laid on the

table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 70, relative to the appointment and duties of the New Hampshire retirement system trustees. (Brown of Dist. 19—To Executive Departments, Municipal and County Government)

SB 71, providing for state assistance to persons suffering from hemophilia and making an appropriation therefor. (Preston of Dist. 23; McLaughlin of Dist. 13—To Public Institutions)

SB 72, instructing the commissioner of resources and economic development to erect a commemorative marker on the Hampton harbor pier commemorating the Irving N. Jones family for contributions to commercial fishing. (Preston of Dist. 23; Rep. Cunningham of Rockingham Dist. 12; Rep. Parr of Rockingham Dist. 12; Rep. Norton of Rockingham Dist. 12—To Recreation and Development)

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 4, 37, 18, 26, 72 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 4, amending the hunting season for raccoons. To Recreation.

HB 37, relative to the taking of wild deer in the town of Chester. To Recreation.

HB 18, to require the operator of a motor vehicle to report an injury to a dog struck by his vehicle. To Transportation.

HB 26, requiring the use of a protective safety cage when changing split rim truck tires in a repair shop, garage or serv-

ice station. To Transportation.

HB 72, making general revisions of the laws relating to parachuting. To Transportation.

Sen. Saggiotes introduced a resolution.

RESOLUTION

WHEREAS, a Resolution is the means by which the Senate of the State of New Hampshire can honor individuals for outstanding achievement; and

WHEREAS, on Saturday, November 13, 1976, the Stevens High School Cardinals Varsity Soccer Team of Claremont captured the 1976 New Hampshire Interscholastic Athletic Association Soccer title by beating the Raymond High School Rams 1-0; and

WHEREAS, the success of the team is due to the superb efforts and hard work on behalf of the team players, namely:

Co-captains Bill Scott and Gary Lawrence

Alan (Duffy) Wilson, Andy LaCasse, Peter Rosinski, Larry St. Pierre, Mike Rouleau, Kris Osgood, Brian Webster, Phil Griggs, Rod Miller, Tony LaCasse, Bob Ward, Dan O'Shea, Randy Thibeault, Keith Weed, Bill O'Shea, Pete Marro and Don White; and

WHEREAS, much credit for the success of the Cardinals must go to Varsity Soccer Coach Malcolm Longenecker and Assistant Coach Ray Bernard; and

WHEREAS, the morale-building efforts came from the Varsity Cheerleaders, namely:

Kristen Chellis, Bari Caplan, Norita Sanders, Sue Magnuson, Kim Yurek, Jean Chiasson, Paula Leahy, Cathy Gale, Carole Jackson, and Mary Frances Geary; and

WHEREAS, credit for the direction and training of the cheerleaders must go to Coach Bonnie Moses; and

WHEREAS, the Cardinals thus brought great honors to their town and school at the climax of a spectacular 15-2 season (the 2 being a tie and a loss); and

WHEREAS, Emil Nagy and Rick Scott should share in this honor for their help in the past; and

WHEREAS, the students, faculty, parents and friends of Stevens High School, through their encouragement and support of the Cardinals, also deserve a share in the heartwarming victory of the team;

THEREFORE BE IT RESOLVED, that the New Hampshire State Senate does hereby honor and commend the Cardinals Varsity Soccer Team of Stevens High School, Claremont, New Hampshire as New Hampshire Interscholastic Athletic Association Soccer Champions of 1976.

Alf E. Jacobson, President
James A. Saggiotes, Majority
Leader

Attest: Wilmont S. White
Clerk of Senate
Date: February 8, 1977

Adopted.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday at 3:00.

Adopted.

Late Session

Senator Preston moved to adjourn at 3:15 p.m. until Wednesday at 3:00 p.m.

Adopted.

Wednesday, February 9

The Senate met at 3:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain

Let us now bow our heads and seek the Lord, as we strive to make our way through the maze of problems, that beset our State and Nation. Lead us, please, to give insight and assistance to all who are striving to help solve our most severe difficulty—"The Energy Crisis"—and the hardships that fol-

low in its wake. Guide us, that we may gather our work forces together in common unity—for the accomplishment of a permanent settlement.

Amen

Senator Foley led the Pledge of Allegiance.

INTRODUCTION OF GUESTS INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 73-82 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 73, permitting members of the New Hampshire Fair Association to hold on-sale permits. (Blaisdell of Dist. 10; Sanborn of Dist. 17—To Ways and Means)

SB 74, relating to the regulation of polygraph examiners. (Bossie of Dist. 20—To Judiciary)

SB 75, imposing certain limitations on oil suppliers doing business in the state. (Bossie of Dist. 20; Fennelly of Dist. 21; Saggiotes of Dist. 8—To Energy and Consumer Affairs)

SB 76, relative to voter registration. (Sanborn of Dist. 17; Monier of Dist. 9; Rep. Conley of Carroll Dist. 3—To Executive Departments, Municipal and County Government)

SB 77, relative to straight ticket voting in all biennial elections, all other elections of national or state officers, and primaries. (Preston of Dist. 23; Rep. Day of Hillsborough Dist. 26; Rep. Krasker of Rockingham Dist. 22; Healy of Dist. 16—To Executive Departments, Municipal and County Government)

SB 78, relative to the packaging of fresh meats. (Downing of Dist. 22—To Energy and Consumer Affairs)

SB 79, increasing the permissible amount of assets under the elderly exemption and expanded elderly exemption law. (Downing of Dist. 22—To Ways and Means)

SB 80, relative to the sale of cider. (Rock of Dist. 12—To Ways and Means)

SB 81, relative to the penalty of willful trespass involving forest product. (Poulsen of Dist. 2; Rep. Johnson of Cheshire Dist. 3—To Environment)

SB 82, relative to the director of forest and lands and the director of parks. (Poulsen of Dist. 2; Rep. Johnson of Cheshire Dist. 3—To Administrative Affairs)

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 119, 106, 153, 64 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 119, authorizing the position of hearing officer in the department of education. To Education.

HB 106, relative to the appointment of medical referees by county commissioners. To Executive Department.

HB 153, repealing RSA 262:43 pertaining to garage registration of out-of-state automobiles. To Transportation.

HB 64, prohibiting persons from seeking or holding office as a member of the general court and county commissioner at the same time. To Executive Department.

Senator Foley offered the following resolution:

WHEREAS the month of February has been proclaimed as Black History month, and

WHEREAS Black History Week will be observed by the Portsmouth Naval Shipyard, Pease Air Force Base, the city of Portsmouth and the town of Kittery from February 13 to 20, 1977, and

WHEREAS the Black citizens of this state and this country have made distinctive and significant contributions to the strength and continued growth of this nation, and

WHEREAS their uncommon zeal, worthwhile input and dedication have helped create this America...the beautiful and

WHEREAS Black Americans have always been willing to give much more of themselves than was asked of them, thereby being instrumental in making this country an acknowledged world leader, therefore be it

RESOLVED that the Senate of the State of New Hampshire hereby joins in the celebration of Black History Month and urges the citizens of New Hampshire to take cognizance of this event and participate fittingly in its observance.

Adopted

COMMITTEE REPORTS

SB 21, requiring the impoundment and forfeiture of a "Propelled vehicle" used in the commission of certain crimes. Inexpedient to legislate. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, I arise in opposition to the bill as proposed by the senator from Deerfield, Senator Sanborn. Basically I have some great reservations about the bill mostly because I think the intentions of the sponsor are good. As we know, under current law one is going to say burglarize a home out in Deerfield, they can drive to the scene, and they certainly have some beautiful homes there. So what happens if he gets picked up, he just gets a fine or imprisonment or whatever the courts should determine. Frankly, its basically impractical because what happens is this; what if I personally go out and buy an automobile and mortgage it for \$5,000, so it really belongs to the bank. Then I go up to Deerfield and I rob one of Senator Sanborn's homes, and if I'm a crook in the first place, I wouldn't have any morals in regards to even stealing that car. So basically what we probably would be doing is hurting innocent people in this case. The committee received a letter from the county attorney from Grafton county on this bill in opposition to it. This is Mr. John Ralleigh from Woodsville, he says this bill makes no provision for the protection of rights of secured parties or owners of rental vehicles if the registration is in the name of the defendent making him the owner of record. A similar piece of legislation has caused

an abuse which unfortunately was endorsed by the United States Supreme Court. In that particular case the defendant chartered a 46 foot yacht, he was then found to be in possession of one marijuana cigarette on the yacht. The federal government seized the yacht and sold it at public auction, much to the dismay of the yacht brokerage who had no part in the criminal activities whatsoever. I would not wish to see similar injustices perpetrated on citizens of New Hampshire who innocently lease or loan money upon a vehicle with no idea that the party renting or borrowing against it intended to use it for the commission of a crime. I understand too from the federal law that a number of charitable institutions receive Cadillacs. For some reason the biggest crooks seem to buy the biggest cars and in perpetration of their federal crimes they sometimes use them. The fact remains that the bill, in theory, is good. The idea is good and people who do commit these crimes should perhaps lose these vehicles, or at least lose their right to operate a vehicle, and I would certainly go along with that. There are just too many imperfections to the bill as it is and I just do not know how it could be remedied so as to be adequate for the purposes for the State of New Hampshire.

Senator Sanborn moved that the words "Ought to Pass" be substituted for "Inexpedient to Legislate."

Sen. SANBORN: Mr. President, the members have a copy of a proposed amendment to this and during the hearing the only people that appeared against the bill referred to this one part and I have received a couple of letters since then myself only in this area. The original bill stated anybody who had lost their vehicle because they had committed a burglary if he were found later innocent, he would still have to pay for the storage charges. This was evidently an oversight of mine and something that Legislative Services snuck in. I must agree that this would be a severe penalty. So my amendment basically removes that portion from **SB 21**. Now, I feel that **SB 21** should pass at this time. At our last regular session I had a similar bill. It passed the senate but lost its life somewhere over there on the other side of the wall in the House. This is very much of a problem in the State of New Hampshire as Sen. Bossie referred to; people running around with a pick-up truck and finding a vacant place in the country, breaking and entering and taking valuables out of the house. Most of what

they are looking for are TV sets, radios, CB's, etc.; electronic equipment because it is very hard to identify later on and it has the best sales value. To cite a case within the last year and a half within 20 miles of the city of Concord. A young man stole a power lawn mower in the town of Pittsfield. He later got caught by the police and he was taken to court in the Pittsfield area and the judge says "guilty" pay a fine of \$250. He didn't have the \$250 so the judge said go out and earn it. So what did the boy do? He took his pick-up truck and went to Epsom and stole two stoves within less than one week after the court let him out. He was down through my town trying to sell the stoves so he could get money to pay the fine that he got at Pittsfield. It wasn't too long after that the same boy was picked up for this crime got the same sentence and he was over in Goffstown doing some more breaking and entering. Why this comes close to home is, he got picked up in Goffstown again and within one week he broke into my father-in-law's store and stole \$300 worth of material to pay the fine. He had a couple of girl friends in this case and that's how he happened to get picked up this time because one of the principal items he stole were cigarettes and one of the girl friends bought a carton of cigarettes from him for \$1.50. How do you get a carton of cigarettes for \$1.50? So that's how they caught him in that case. This is going on at this end of the state right now. The last items in the New Hampshire Crime Analysis of 1975 show that the most frequent offense now in the state of New Hampshire is burglary. This may sound strange but this predominates in Carroll county. There are more summer homes in Carroll county vacant in the winter time and late fall—winter and everybody knows they are vacant so persons immediately break in and clean a house out. There are a good many indications in this latest crime report where burglary is costing the people of the state of New Hampshire in the millions of dollars. It comes to roughly \$1,000 per person. In fact the table tells me that burglary in 1975 amounted to five million, seven hundred-forty-three thousand dollars in the state of New Hampshire alone. We have an increasing problem. I think we had an indication of this in Senate Finance not too long ago when the judges indicated that these types of crimes are now reaching the same level in courts as civil cases. This crime is actually catching up with the civil cases in our courts. Court dockets are filled. If we could just add this one little piece of legislation to get these

crooks off the streets, they're not going anywhere unless they got wheels, this is one way to cut down crime in the State.

Sen. BERGERON: Senator would you believe that perhaps you saved your own car in this particular incident because had the man not had the pick-up he'd had been looking for your car.

Sen. SANBORN: He has been known, this character, to hunt for cars about my size.

Sen. BERGERON: In that case it would do no good to have this legislation on the books. If he wants a car he will find chances to get it.

Sen. SANBORN: If I am stupid enough to leave my car in such a condition that he can pick it up, take off, and do a robbery, then I should lose my car.

Sen. BERGERON: If I take my automobile, registered in my name, now let's make an assumption here that most of the people doing this sort of deed are people of very limited, if any, means. If I go out and commit a burglary with my automobile, and I may have some equity in that automobile, the only one you are really hurting, because I am going to jail and I won't need that car, are the people that I've left home. Had they had the car they could have sold it and gotten some money for it to help sustain them.

Sen. SANBORN: I don't really understand what your question is. I'm not sure what the second referral is.

Sen. BERGERON: The second referral senator is that I committed the burglary in my car, and I am apprehended. I have no visible means of support for my family. Now while I am in jail, someone is going to have to take care of these people. What I am saying to you is; wouldn't it be better to let the family have the car and sell it so that they could at least live.

Sen. SANBORN: One of the points I am trying to make is to get these people off their wheels because all they do is use the wheels, as I illustrated, to go out and commit another crime. Out in the back woods where I live the only way you get from one place to another is to use wheels. In the City of Rochester you can walk down the street but not my neck of the woods.

Sen. BOSSIE: Senator, under your bill with the amendment, if a defendant is charged with this crime and he is found in the local court to be not guilty or found guilty, he appeals to superior court, and this drags on for a couple of years and

then he is found not guilty by the superior court, who would reimburse him for the years of the loss of his car and for the depreciation of the car for two years. Its obvious that we are taking somebody's property prior to the time he's convicted of the crime.

Sen. SANBORN: You will not, Senator. One of the changes I made is that he will get his car back if found not guilty at no charge.

Sen. BOSSIE: I refer to the depreciation and the value of the car as we know every car every year depreciates some \$700 or more. And if it's my car and I lose it for two years I'm out \$1800. Who would reimburse me for that, if I was not guilty in the first place?

Sen. SANBORN: You're talking about an instance where you've been found guilty by one court and appealed it and it was overturned by the next court. That's a good question.

Sen. BOSSIE: Under those same circumstances in a case where the defendent buys a car and owes the bank \$5,000 for it and goes out and does this awful crime, now you don't make any provisions for who has priority, the State of New Hampshire or the bank? They are the ones who are going to lose the most.

Sen. SANBORN: Senator, in this case, we'll say for instance Senator Bergeron has gone out bought a new car and come over in the county where I live and broke in and entered and got picked up by the police and his car confiscated. Yes, the bank may have the lien on it but now he's in jail on a double penalty. He still owes the money to the bank and he has to pay the bank. So he ought to be a little bit more careful.

Sen. HANCOCK: Senator Sanborn does this apply to coownership? Supposing a husband and wife were co-owners of this car. Is this just a sole ownership or is this coownership?

Sen. SANBORN: This applies to the vehicle regardless of who owns it. For instance, let say Senator Smith and his wife own a car together and Senator Smith is out moonlighting by burglarizing houses. He is in turn besides putting himself in jeopardy in going to jail, but he is also putting his wife in jeopardy of not having a vehicle that she is co-owner of. He should have taken that into consideration before he went out moonlighting.

Sen. HANCOCK: Does that mean his wife's rights in the car are relinquished?

Sen. SANBORN: In jeopardy.

Sen. PRESTON: Sen. Bossie if this were enacted into law, would the person in your opinion be guilty until proven innocent?

Sen. BOSSIE: Well, I guess this would be an extension of the current laws of DWI where if you're found guilty by district court then you lose your license automatically even though you have a right to appeal. Basically, what it is, its a nice attempt by Senator Sanborn for a good end but it's just a bad means. I think it's unconstitutional.

Sen. BLAISDELL: Senator Bossie who pays the storage on the car, for instance if the man is found innocent?

Sen. BOSSIE: If he is found innocent, it would be the county or someone other than the dependent. It would be the public, the public's money would be used to store this for a period of time, at least six months.

Sen. BRADLEY: Yes, I arise in opposition to Senator Sanborn's motion. The bill has several problems with it. One of them is taken care of to some extent by Senator Sanborn's amendment but there are other problems and they are serious. The problem of the co-owner or the bank which is the typical one that holds the mortgage, gave the mortgage, or the security interest in the car in most cases in good faith not knowing that the person they were lending to was going to go out and burglarize someone's house. The bank is going to lose the money. Senator Sanborn has a point, when you sell the car you pay off the loan to the bank. That lets the man off the hook. That is a reasonable point certainly, but the other side of that point is that the banks are going to find that quite a problem and also banks are going to be more reluctant to grant loans on cars. They are going to have to recover the money somehow and that's going to increase the interest rates on lending a car. There is a more fundamental problem, and I think Senator Preston put his finger on it, and we haven't made this clear in the discussion of the bill so far. The bill provides that the car gets impounded by the sheriff upon arrest without any process, without any hearing, without any determination of guilt, simply arrest on the charge of one of these two things using it to transport stolen property or burglary. We have something in the Constitution that most of us have heard about, about taking away one's property without due process of law and I think this is a glaring example of what that would be if we were to enact this. I can conceive of

a law which would provide that after sentencing, a judge might take the man's vehicle and have it sold. If we were to have such a law, it certainly should not be a mandatory thing because the judge ought to be able to look at all the facts and circumstances as to what effect this would have on the family. As I understand Senator Sanborn's purpose that would not satisfy him and therefore we will have to consider the bill further.

Sen. POULSEN: Senator Bradley in the case of a game violation, a man jacking a deer with a light and gun, what is the disposition of the gun and light at the time of arrest which would be at that time?

Sen. BRADLEY: I understand there is a provision in the game laws that provides for forfeiture or impoundment of the gun and light under those circumstances.

Sen. POULSEN: If the headlights of an automobile were used to commit the crime, jack the deer, what would be the disposition?

Sen. BRADLEY: I'm not sure, but I think the car may be impounded as well. And I just go on further to answer those, I would question the constitutionality of those as well, but there is a certainly a distinction it seems to me between the case of the gun and the light under those circumstances where they can sort of create the presumption of guilt, if you will. It is a little different situation of a man who may be sitting at home watching TV when he is arrested, and the sheriff says by the way we are impounding your car. There is nothing in here that requires that you caught him red-handed and he was using his car. There is no such requirement in here. I think if someone challenges those statutes, there is a problem as well.

Sen. LAMONTAGNE: Senator, did I hear you correctly you said the amendment had some good in it?

Sen BRADLEY: Yes, One of the problems with the original bill was that even if the man was found innocent, you still pay the storage charges and we speculated that that could be six months or more and if it were a four or five hundred dollar car, the storage charges might make you sell the car to pay these charges. Several people caught that including your old friend AAA.

Sen. LAMONTAGNE: Didn't you know that I am very friendly with them now?

Sen. BRADLEY: Oh no I didn't. Senator Sanborn's amendment I think does pretty well take care of that problem,

but there are still others that I consider fundamental problems with the bill.

Sen. LAMONTAGNE: Seeing that the committee is not too busy right now would you have any objections if this was recommitted back to your committee?

Sen. BRADLEY: No. If it were, I would certainly like some direction as to what the committee might do with it. For example, what the committee might do with it for example as I say I can conceive of something that might be workable if you gave a sentencing judge upon conviction in a discretionary way to use it in appropriate cases. I could conceive that being workable, but as I say, my question of Senator Sanborn in the hearing led me to conclude that my ideas are not consistent with his purpose.

Sen. LAMONTAGNE: Senator were you aware of the amendment as now proposed before this senate?

Sen. BRADLEY: Aware of it? Yes, I have read it and as far as it goes the amendment takes care of one problem but as I say, it doesn't take care of other problems which I consider to be more serious.

Senator Lamontagne moved to refer **SB 21** back to the committee on Judiciary.

Sen. LAMONTAGNE: I move that this bill be referred back to the committee. At the same time hoping they would review the proposed amendment that is now pending before this senate.

Sen. BOSSIE: Mr. President would it be proper at this time to move that **SB 21** be indefinitely postponed?

CHAIR: That motion would be out of order at the present time.

Sen. ROCK: Mr. President I support the motion from the honorable Senator from the first district. I think Senator Poulsen in his questioning has raised a very valid point and yet the discretionary clauses that the Senator from the fifth district also impress me. I would like to see the committee study further the bill which I believe has definite merit with the considerations that have been brought out under the questioning today. So I support the motion to recommittee.

Adopted.

SB 23, increasing the penalty for reckless operation of a motor vehicle. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: Mr. President I rise in support of the committee recommendation of ought to pass. In a sense this bill could be classified as housekeeping, for it is a sort of thing that was done rather wholesale when we adopted the criminal code. That is we went through the criminal statutes and tried to make uniform various penalties where we had a variety of things and tried to classify them in a uniform way in violations, misdemeanors, Class B felonies Class A felonies and that was done with almost all statutes. The old fine was left on as being \$100—\$500 and no provision for imprisonment which under the code makes it only a violation which is technically not a crime and the lowest form of violation in the criminal code. Now reckless operation historically has been considered to be something else, reckless driving to endanger, driving on a wager or bet, that sort of thing is considered to be substantially worse than something like speeding and to be on a par with DWI. However, the proposal was simply to say this will become a misdemeanor which would give the court the power to fine up to \$1,000 and the power to imprison up to 1 year and also leave in tact the provision to revoke a license.

Sen. MONIER: Am I correct that in making it a misdemeanor, there is an automatic fine that is involved with any misdemeanor, so therefore the removal of the \$100—\$500 does not mean that a person could not be fined as well, as losing his license.

Sen. BRADLEY: That's right. It wouldn't be automatic, it's not a mandatory thing. Actually you would double the maximum fine that could be imposed. But more importantly, I think you also have the threat of the jail sentence and you would get the thing classified as a misdemeanor.

Sen. MONIER: I asked that question so no one would think we were removing a fine as a possibility here in a term like this.

Sen. BRADLEY: That's a good point to make.

Sen. BERGERON: I note that the death of any person resulting from reckless operation of a motor vehicle then becomes a Class B felony. How about personal injury? What's the penalty for that under this bill? Does it address itself to that at all?

Sen. BRADLEY: I think that actually the criminal code

makes the distinction between death and nondeath. It focuses more on what the guy was doing rather than the results of his action. We are talking about criminal provision and this does not affect, in any way, the rights of the injured person.

Adopted. Ordered to a third reading.

SB 34, relative to the object of detailed financial accounts in annual town reports. Inexpedient to legislate. Sen. Preston for the committee.

Sen. PRESTON: This directs town officers to publish their town report on an expenditure basis instead of detailed data by identifying individuals. You may be accustomed to seeing your town reports. The committee is aware that the present law does not prohibit them from reporting in the manner suggested by this bill. It's their decision as to how they report. The argument set forth to the committee for the cost of printing such detailed data and the details and the clerical work that went into putting a report out in such a short amount of time. The committee felt the town through its elected selectman should make their own determination as to how they handle their reports. Nothing prohibits towns reporting the way the bill now indicates and the town report in no way affects the manner in which the town report to the department of revenue administration who had requested this bill. It appears that this is just another state statute not necessary at this time.

Adopted.

SB 35, relative to the incompatibility of certain town offices. Ought to pass. Sen. Monier for the committee.

Sen. MONIER: **SB 35** is a bill that has been long overdue. We have on the statutes, at the present time, incapability in town officers in regard to selectman and treasurer and town clerk and so forth but the one place that is not in the statute is an incapability of town clerk serving also as a town treasurer. This lends itself to great possibilities for fraud and embezzlement; because the town clerk, for example, and the town treasurer are responsible for the collection of fees, placing them in the bank, accountability of them and so forth. If a

person was to occupy both of these it does not mean that he could commit fraud, and there is no check and balance existing between them. We have had some cases brought to the attention of the committee by those testifying for it. Mr. LaPlante of the Division of Revenue and Administration supported the bill and I believe it was unanimous in the committee that this should be done. It eliminates the susceptibility to the capability of having embezzlement and fraud and misuse of funds or personal use of the funds within a town; so we felt this was something that ought to pass and was unanimous by the committee.

Sen. TROWBRIDGE: Senator Monier have you considered the fact that, I'm not against the bill, it says 60 days after passage and that there are a number of people right now running for town treasurer not knowing of this bill. We may put some very nice people in a bind.

Sen. MONIER: Senator Trowbridge I became aware of that after going home last night that we had some things like this that might occur at the town meeting. I did not want to stop this coming into the Senate. I agree with you. I don't know quite what to do about it but I would be very happy to accept a motion to amend it to take effect immediately. However, this may raise the additional question of names already found on the ballot. So perhaps the best way to do this is to let it go as it is at the present time and then try to correct it.

Sen. TROWBRIDGE: Wouldn't you think that if you just put a saving clause ending at the term whenever dual terms expired. Make sure it doesn't go into effect until July 1 of this year by which time all elections would have taken place. There must be an easy way to take care of that.

Sen. MONIER: In response to that my feeling would be the same. I'm trying to think of a motion to make to that effect at the present time. I'm just trying to do this in my head. It is a problem, there is no question about that. I think the sum of the bill though is well taken because it has to be done. Maybe the passage of the bill with an amendment of a grandfather clause might work and therefore, have it take affect July 1. Why July 1?

Sen. TROWBRIDGE: My reason on that would be that you would have a long time after it passed after town meetings for people to know so that it would be one of the session laws. Could be any time. But that is a good time.

Senator Monier moved to lay **SB 35** on the table.

Adopted.

SB 20, providing that only persons less than 16 years of age be required to wear protective headgear while operating or riding on a motorcycle. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill removes the mandatory provisions of the headgear motorcycle law. There was much testimony on it. In fact, there were 50 people at least at the hearing. The Department of Safety did testify against it as a basis of more safe operation with helmets. The motorcycle people, in fact former employees of the Department of Safety testified the other way that there were as many or more injuries caused by the helmets particularly the back of the neck injury, broken necks and such things with them than there were without them. The preponderance of evidence was that helmets didn't do that much good; they could do some damage, and there was a certain loss of vision and hearing due to wearing a helmet over one's head. The other point was that the big brother concept shouldn't be but be the individual's right to protect his head, if he wants to and not the States responsibility. Figures from other states, states that have never had it and states that have changed proved rather well that the helmets did no particular good. The committee agreed that it shouldn't be mandatory and we hope this bill will pass.

Sen. TROWBRIDGE: I've got two questions of Senator Poulsen. One, is there anything here that changes the regulation that they have to wear eye protection?

Sen. POULSEN: I don't know. I don't know if that's in the law.

Sen. TROWBRIDGE: Most kids only get their license at age 16 so that you say anybody under 16 had to wear a helmet. Who would wear a helmet if they can't be licensed under 16?

Sen. POULSEN: The reason for that is if you have a little boy or a younger brother riding on back.

Sen. TROWBRIDGE: As I understand it Senator Poulsen, the maximum period of danger of a person on a motorcycle is the first four months of its use and after that it goes down. That's the period of time when most kids get in accidents. This bill, if it's true, says at 16 you don't have to wear one.

That means your first trip out can be without a helmet and that, evidently is the accident prone year whether your 16 or whether 25 or 35. It's those first few miles on the highway on the motorcycle evidently that's troublesome. Did you hear testimony to that degree?

Sen. POULSEN: No. My own experience would be quite the opposite.

Sen. BOSSIE: I don't have the current revisions that were made in the special session this past year, but I don't recall any change from this. Its RSA 263:29C "If a motorcycle is not equipped with a windshield or screen the operator of said motor vehicle when operating said vehicle shall wear either eyeglasses, goggles or a protective face shield." So that would cover Senator Trowbridges earlier question.

Senator Keeney moved that **SB 20** be indefinitely postponed.

Sen. KEENEY: I just can't let the bill go ahead in this fashion. Ten years ago I was one of the original sponsors of the headgear law, and at that time my interest in it was not, as one of the sponsors pointed out on channel 9 one evening, that the federal government was requiring these protective measures so that the states could get federal money. My reason for originally introducing the bill was based on having just prior to 1967 lived abroad a couple of years and seen motorcycles used to a great extent as a regular means of transportation. On returning to New Hampshire, I became aware that motorcycling as a recreation was gaining in popularity and practically every weekend there were a number of deaths. It seemed, from the literature and reports I could look at at that time, that primarily the deaths were due to head injuries and it was on that basis that at least one of the three sponsors of the original helmet law thought that a helmet requirement was needed. To go on from there, at that time some of the same opposition was presented to the committees, primarily that one has a right to decide that if he wants his head bashed in or not, and it has nothing else to do with society. Basically, I believe in individual liberties but in this case I think that it does have something to do with society and that protection in many instances is made for individuals and for groups through the laws. One of the ways I have since seen that we do have a responsibility to tell somebody, do this or do that, is because

often their injuries come back and we pay for them. Specifically, since I have been a selectman I have seen two cases of fellows injured in motorcycle accidents when they were wearing helmets, the helmet having protected their life. If they had not been, we probably would have to had spent more money in welfare aid. I have met with representatives from the New Hampshire Motorcyclists Rights Association within the last couple of months and I have pratically verbatim testimony of everything that has been said by motorcyclists associations before the federal government and their own brochures contradict what they are telling us. For instance, while they say they do not want to be forced to wear helmets, they recommend their members wear them. Also, the papers they gave me included testimony before the US Senate in 1975 where statistics were quoted from the Insurance Institute for Highway Safety showing that deaths at least have been cut three per 10,000 a year through the use of helmets. I really feel that we are making a mistake if we accept this bill, I see no arguments against it that you could accept by putting the helmet on the 16 year old and not putting it on the 17 year old. Its still a very current question. I happened to read three newspapers last night and I believe this clipping was in the Monitor but it was Silvia Porter's article on motorcycling tips, and in that article just last night it said "your helmet is your most important protective equipment."

Senator Fennelly moved the previous question.

Adopted.

Motion to indefinitely postpone.

Senator Saggiotes requested a roll call.

Seconded by Senator Lamontagne.

The following senators voted yes: Smith, Blaisdell, Trowbridge, Keeney, Hancock, Downing.

The following senator voted no: Lamontagne, Poulsen, Gardner, Bradley, Bergeron, Saggiotes, Monier, Rock, Healy, Sanborn, Provost, Brown, Bossie, Fennelly, Preston, and Foley.

6 yeas 16 nays

Motion failed.

Adopted. Ordered to a third reading.

SB 49, exempting certain vehicles from the motor vehicle title law. Ought to pass. Sen. Lamontagne for the Committee.

Sen. LAMONTAGNE: This bill specifies that any motor vehicle whose manufacturer's model year is older than 10 years does not require a certificate of title; however, heavy trucks and truck-tractors whose gross weight exceeds 18,000 pounds require a certificate of title regardless of the manufacturer's model year.

Adopted. Ordered to a third reading.

SB 25, relative to sweepstakes commission funds. Ought to pass. Sen. Fennelly for the committee.

Sen. FENNELLY: **SB 25** was requested by the Sweepstakes Commission and was sponsored by Sen. Rock. What it does is gives the initiative to all state employees to sell sweepstakes tickets. The State Employment Association came to testify in favor of the bill. Also, Mr. Powers, Director of the Sweepstakes Commission testified in favor of the bill. There was no opposition whatsoever and I urge the Senate to vote in favor of the committee recommendation.

Adopted. Ordered to a third reading.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday at 3:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

SB 23, increasing the penalty for reckless operation of a motor vehicle.

SB 20, providing that only persons less than 16 years of age be required to wear protective headgear while operating or riding on a motorcycle.

SB 49, exempting certain vehicles from the motor vehicle title law.

SB 25, relative to sweepstakes commission funds.

Adopted.

Sen. Gardner moved to adjourn at 4:40 until Thursday at 3:00 p.m.

Adopted.

Thursday, February 10

The Senate met at 3:00 p.m.

A quorum was present.

The prayer was offered by Senate President, Alf E. Jacobson.

Oh Lord!

As we assemble may thy spirit flood over us. Let us understand how to best use the tools of compassion which thou does't offer us. May we in the hurly-burly of legislative concerns see that our ultimate concern ought to be for thy children everywhere and in every circumstance and for thy glory. This we pray in thy name.

Amen

INTRODUCTION OF SENATE BILLS First and Second Reading and Referral

SB 83, relative to wild turkeys. (Blaisdell of Dist. 10—To Recreation and Development)

SB 84, authorizing limited police powers to title investigators fire investigators and licensing officers of the department of safety. (Lamontagne of Dist. 1—To Judiciary)

COMMITTEE REPORTS

CACR 8, Relative to: The Trial of Crimes.

Providing That: District Courts may try Crimes in a County other than the County in which the Crime is committed. Without Recommendation. Sen. Bradley for the Committee.

Sen. BRADLEY: The committee has acted on this particular bill and voted to report this out as ought to pass with amendment. The amendment did not get prepared therefore we would like to lay it on the table in order to get the amendment ready.

Sen. Bossie moved that CACR 8 be laid on the table.

Adopted.

SB 42, establishing a judicial selection commission to recommend at least 3 candidates for all judicial appointments. Without Recommendation. Sen. Bradley for the committee.

Sen. Bradley moved that the words "refer to the Supreme Court for an Advisory opinion" be substituted for the words "Without Recommendation."

Sen. BRADLEY: This particular bill has been before us before and we passed it. It was vetoed by the Governor. It provides for a commission which would propose three names to the Governor & Council when a vacancy occurs in the judiciary. The Governor could choose any one of the three or could ignore any of the three and choose his own person. But it would provide a mechanism by which well qualified people would be presented to the appointing authority. The commission would be made up of half members of the general public, half attorneys, with the chief justice serving to break a tie.

The Governors Counsel, Mr. Biglow, appeared and raised several issues under the state constitution indicating that he felt the bill violated the separation of powers and that the legislature was invading the province of the executive in proposing this sort of law having this kind of involvement in judicial selection. It is true that the appointing authority is, in the Governor and Council. The committee does not agree with the Governor's intention but there are some substantial questions that have been raised. We feel the best approach to deal with it is to go to the supreme court for an advisory opinion.

Sen. ROCK: Did your committee hear testimony to the effect that it is now the practice to present to the governor a screened list of potential candidates for positions in the judiciary?

Sen. BRADLEY: Yes. There is a procedure now in effect, an agreement, between the President of the Bar Association and the Governor whereby that when a vacancy comes up the bar association will submit names of people that it feels are exceptionally qualified for the opening and the Governor in return will give such names as he wants to have rated to the bar association. Its a procedure which I understand is working well in the eyes of the President of the Bar and the Governor.

Sen. ROCK: Then I understand that there is a two way street that has been opened both for the presentation of names to the chief executive as well as the chief executive presenting names for screening to the profession that in your own words is now working well?

Sen. BRADLEY: Yes. I think in the view of the president, past president, current president and the Governor, that the present understanding has worked well in the few cases where it has been used. To anticipate the question, if that is working well, why do we pose this? The answer to that is two-fold. I know it is the intent of the sponsor and clearly the intent of the bill that not only should the lawyers of the state and in particular the President of the Bar Association and perhaps the Board of Directors be the ones that are proposing the names. This should also involve the general public. Secondly, the current understanding is totally informal and could be ignored by either party at any time. Whereas, this bill would establish a procedure somewhat to the same ends, but ensure that the procedure endured.

Sen. ROCK: Senator, don't I understand from your previ-

ous answer that this in effect is also an informal procedure even though it's statutorily based and any or all nominations to the executive branch may well be rejected?

Sen. BRADLEY: Well, I wouldn't use the word informal. I think the right word is advisory. All this is advisory in the sense that the governor is not constrained to accept one of the people proposed. That would be true under either the present understanding or under the bill. This is the way it has to be until we change the constitution.

Sen. ROCK: If the way we are doing it now is basically the same way we are going to be doing it under the bill, why would you want to send this to the court for clarification?

Sen. BRADLEY: Well, the reason we are sending it to the court is that the Governor's legal counsel has come in and said that he feels it is unconstitutional and he has raised a couple of questions that, I think have some weight. I don't agree with him, but I agree that some significant issues ought to be disposed of. Beyond that, we think the bill is a good one. As sponsor of it in previous sessions, I think it is a good idea.

Adopted.

Senator Trowbridge offered a budget analysis.

BUDGET ANALYSIS AS OF FEBRUARY 10, 1977

In presenting this analysis, I want to emphasize its purpose. When the budget is presented, we see the balance sheet for the year for the first and almost last times. These figures are unfamiliar and often confusing.

So, in preparing for the Governor's Budget Message next week, I found it useful to try to get some of the figures together that we would be seeing so they could be compared.

The other reason for going through this exercise is, quite simply, my amazement at the figure presented by the Governor in his Inaugural Speech concerning the amount needed for new revenue in the coming biennium. The press seems to have missed the significance of his statement, namely, "With expanding business profits revenues and a readjustment in some of our current sources of income, we should be able to anticipate \$20 to \$25 million more per year for the General Fund revenues of the 1978-1979 budget than at present."

To think that New Hampshire can easily raise 40-50 million new dollars over the next two years is one thing. But first, one needs to know *why* the Governor needs this large amount of revenue.

First, let's look at the tables. They show, as best I can figure with the help of the Legislative Budget Assistant's Office, what our revenue will be and our projected expenditures assuming; (1) the revenues are as submitted by department heads to the Comptroller; (2) assuming a 6% increase in operating expense (excluding salary each year of the bien-nium; (3) assuming benefit packages remain as present; (4) and assuming all departments and functions remain unchanged.

On the revenue side, the figures are somewhat higher than the House Ways and Means Committee estimates. The reason: The Insurance Department raised its estimates by 2 million last week. The Greyhound Racing Commissioners also upped their estimates by 3 million last week.

The fact that figures change should not be a source of criticism. The figures I give today will change drastically. But they do give us the scary projection that net revenues should, without change, only rise 13 million over the present figures. (Compare Table I, line 5 and Table III, line 5).

On the expenditure side, I have tried to isolate the known, fixed expenditures—fixed in the sense of needing some statutory change in order to relieve the State. At this point, let's look at Table I.

Table I gives you 1977, the year we are in, shows (then I will proceed down the table).

In all cases, I tried to get agreed figures from the Comptroller's Department so that there would be minimum variance. For instance, on Table I, item 27 and on Table II, item 1, you will see a figure of (1,517,098). That represents what the Comptroller is using as the deficit at the end of this fiscal year. That figure is being used by the Comptroller even though it does not conform with the recent estimate of the ABC Committee of a \$900,000 deficit. The reason: the Comptroller and the Governor do not believe the Insurance Retaliatory tax will raise 1 million each year for 1977 and 1978. Rather than dispute that decision, I am simply using their figure so that you, as Senators, will be able to follow the calculations in the budget message and not wonder why there is a difference.

Going down Table II, I explain each line, especially 24 and 26. Look at 25,—73,998,140—that's the 6% increase at work.

Expenditures exceed revenues there of 25,700,951—which proves dramatically why the Governor forecast the need for up to 25 million of new revenues in 1978.

Turning to Table III, 1977, much the same process. Note the reimbursements for cities and towns rising. Also Mental Health Grants. The operating expense, line 23 is again up 6%.

The deficit for 1979 is 25,781,115, which combined with line 1, bring the accumulated biennial deficit to \$51,482,066.

Now this is not a scare exercise. What it shows is clear. Either you raise 25 million more per year or you have to cut 25 million more PER YEAR to balance, or a combination of both.

Since the Business Profits Tax has already been projected to yield 6,123,975 and 6,145,175 after paying back the cities and towns (see line 9 on Tables I, II and III, extra revenues needed cannot come from this source without either increasing the tax or decreasing the reimbursements.

If there are cuts to be made, one must note that of the 196,412,339 (line 29, table II) and the 202,533,190 on line 27, Table III, representing net General Fund spending in 1978 and 1979 respectively, roughly 126 million and 131 million respectively are operating expense and salaries. The remaining 70-72 millions are in rather fixed cost areas. Thus, if you had to cut 25 million per year out of operating costs, it is 25 million out of 126 million, or a 20% cut rather than 25 million out of almost 200 million, a little more than a 10% cut.

Further, as you all know, of this figure, a great deal is used to match federal funds. A \$1.00 cut in the state share for Medicaid, for instance, means a total reduction of \$2.50 in the program because \$1.50 of federal matching funds are cut. We have worked hard to maximize federal dollars and to my knowledge, we do get back \$1.00 for each \$1.00 of our federal tax dollars. The General Fund considerations must, in my opinion, keep the total dollar impact in mind. Nevertheless, the Medical Assistance program does consume large sums (\$12 million) of General Funds and you cannot make big cuts without going into big programs.

The whole exercise I have done is set forth on the projected balance sheet. I did not go to this at first because it is so over-powering that it might make you mesmerized. But really, it's just Tables I, II and III put together and as you open the

budget message, much of the first 5 lines should look much the same as this document, except, of course, that the Governor's revenue proposals should be added to this base.

From there on down, the figures will not be the same. But, you will be able to see where cuts were made and what the levels would have been. Any change by the Governor in the items 9-21 would be a significant change probably requiring amendatory legislation.

The last item is the latest revenue estimate from the agencies as of today. This does vary from the House estimate as I said, but this detail will be in your hands as you see how, if any, these estimates vary from the Governor's figures.

All of this is an effort to inform the Senators as to what is going on and what the State is facing. No one who has heard the testimony of the agencies can think that a 20% reduction is desirable. Further, none of this includes any provisions for a (1) pay raise, (2) extra funding for private and public colleges, (3) the prison, (4) Laconia State School (a 6 million dollar request); or any of the bills which have been filed by legislators in the Status of Bills report, showing legislative requests of \$4,038,703 over the biennium for General Funds.

Nothing is in here to give a cost of living increase for retired state employees. Many budgets are running far in excess of the 6% guideline because of new operations mandated by the legislature. For instance, the Veterans Home is opening its new facility in July. Their staff will go from 21 to 60. The cost will rise at least \$275,000 in extra General Fund contributions. Without those funds, the new nursing home unit will simply not open. The Agriculture Department has a rise of \$302,000 for the Sire Stakes program plus \$34,000 in new rentals because we moved them out of the Annex.

In the Attorney General's Office, we will need \$67,000 more because LEAA funding stops on the Law Clerks.

The Adjutant General's Office needs almost \$200,00 extra because the heat and lights at Pease are now being billed to us at true cost. Even Comptroller Fowler, in testifying because the Governor's Budget Committee could not hold within the six percent guideline. His budget increased from 7 million to 10 million dollars for the biennium, mostly to staff the new Safety Building, data processing and increased fixed costs. Even the Governor's office testified that their staff costs will go up from \$219,000 to \$260,000, an increase in excess of 6%.

Dr. Melton of Laconia is asking for an extra \$2.7 million with which to qualify his patients for Medicare.

The list is endless. All it shows is that there are needs out there that legitimately exceed the 6% guideline so that, in order to use the overall figure of 6%, some budgets will have to disappear!

For myself, I plan to be very cautious in making any judgment until I see the full impact of any fiscal action. That is our function. And to the extent that we learn or gather information, we will pass it along to you, just as in this report.

I'll answer questions.

TABLE I—Fiscal 1977

1. Starting surplus beginning		6,810,681
2. Revenues:		
3. Unrestricted	157,575,000	
4. Revenue Sharing	7,378,049	
5. Less Workmans Comp., etc.	639,621	
7. Net Revenues		164,313,428
8. Total Funds Available (add line 1 and 7)		171,124,112
Deduct:		
9. Debt Service	6,040,793	
10. Reimbursements to local govnt.	24,358,150	
11. Accrued liability	1,309,831	
12. Normal contribution	1,565,458	
13. Parks—debt service	757,319	
14. Water Pollution—state aid grants	3,853,392	
15. Grants to community mental health centers	3,406,548	
16. Post secondary Ed. Comm., Incentive Program	187,396	
17. Ed.—Foundation Aid	3,871,268	
18. Ed.—Building Aid	5,343,662	
19. Ed. School Lunch	400,881	
20. Ed.—Handicapped tuition payment	771,750	
21. Ed. Handicapped—Local Sch. Dist.	496,125	
22. Salaries	52,201,805	
23. Benefits	6,890,268	
24. Operating expenses	69,809,566	

25. Total Deductions	181,264,212	
26. Less Lapses	8,623,002	
	<hr/>	
27. Net Deductions		172,641,210
		<hr/>
28. (Deficit)		(1,517,098)
		<hr/>

TABLE II—Fiscal 1978

1. Starting (deficit) beginning of year		(1,517,098)
2. Revenues:		
3. Unrestricted	165,765,000	
4. Revenue Sharing	7,288,107	
	<hr/>	
5. Total Revenues	173,053,107	
6. Less Workman's Comp., Etc.	824,621	
	<hr/>	
7. Net Revenues		172,228,486
		<hr/>
8. Total Funds Available (add line 1 and 7)		170,711,388
Deduct:		
8a. Retirement—1977 deferral normal contributions	978,581	
8b. 27th pay period, benefits and FY 78 increments	3,613,950	
9. Debt Service	7,400,000	
10. Reimbursements to local governments	25,576,025	
11. Accrued liability	1,232,020	
12. Normal contribution	3,757,523	
13. Parks—debt service	703,600	
14. Water Pollution—state aid grants	6,364,938	
15. Grants to community mental health centers	4,524,700	
16. Post secondary Ed. Comm., Incentive Program	423,965	
17. Ed.—Foundation Aid	3,871,268	
18. Ed.—Building Aid	5,481,244	
19. Ed.—School Lunch	552,655	
20. Ed.—Handicapped tuition payment	895,925	
21. Ed.—Handicapped—Local Sch. Dists.	545,732	
22. Salaries	52,201,805	
23. Benefits	6,890,268	
24. Operating expenses	73,998,140	

24a. Indirect Costs—Gross	
value adjustments	2,400,000
	<hr/>
25. Total Deductions	201,412,339
26. Less Lapses	5,000,000
	<hr/>
27. Net Deductions	196,412,339
	<hr/>
28. (Deficit)	(25,700,951)
	<hr/>
	<hr/>

TABLE III—Fiscal 1978

1. Starting (deficit) beginning of year		(25,700,951)
2. Revenues:		
3. Unrestricted	170,420,000	
4. Revenue Sharing	7,341,696	
5. Total Revenues	177,761,696	
6. Less Workmans Comp., etc.	1,009,621	
7. Net Revenues		176,752,075
8. Total Funds Available (add line 1 and 7)		151,051,124
Deduct:		
9. Debt Service	9,100,000	
10. Reimbursements to local govnt.	26,854,825	
11. Accrued liability	1,232,020	
12. Normal contribution	4,133,275	
13. Parks—debt service	685,450	
14. Water Pollution—state aid grants	5,580,116	
15. Grants to community mental health centers	5,067,500	
16. Post secondary Ed. Comm., Incentive Program	592,990	
17. Ed.—Foundation Aid	4,335,820	
18. Ed.—Building Aid	5,580,281	
19. Ed.—School Lunch	606,069	
20. Ed.—Handicapped Tuition payment	926,100	
21. Ed.—Handicapped—Local Sch. Dists.	595,345	
22. Salaries	53,395,967	
23. Benefits	8,009,404	
24. Operating expenses	78,438,028	
24a. Indirect Costs—Gross value adjustments	2,400,000	
25. Total Deductions	207,533,190	
26. Less Lapses	5,000,000	
27. Net Deductions		202,533,190
28. (Deficit)		(51,482,066)

PROJECTED BALANCE SHEET BIENNIUM ENDING JUNE 30, 1979

	Fiscal	1977	Fiscal	1978	Fiscal	1979
Unappropriated Surplus (Deficit)—						
Beginning of Year		\$6,810,684		\$ (1,517,098)		\$(25,700,951)
Add:						
Revenue:						
Unrestricted	\$157,575,000		\$165,765,000		\$170,420,000	
Federal Revenue Sharing	7,378,049		7,288,107		7,341,696	
Total	<u>\$164,953,049</u>		<u>\$173,053,107</u>		<u>\$177,761,696</u>	
Less Statutory Appropriations	639,621		824,621		1,009,621	
Net Revenue Available		<u>164,313,428</u>		<u>172,228,486</u>		<u>176,752,075</u>
Estimated Funds Available		171,124,112		170,711,388		151,051,124
Deduct:						
Debt Service	\$6,040,793		\$7,400,000		\$9,100,000	
Reimbursements to Local Governments	24,358,150		25,576,025		26,854,825	
Retirement—Accrued Liability	1,309,831		1,232,020		1,232,020	
Retirement—Normal Contribution	1,565,458		3,757,523		4,133,275	
Retirement—1977- Deferral						
Normal Contributions			978,581		—	
Parks—Debt Service	757,319		703,600		685,450	
Water Pollution—State Aid Grants	3,853,392		6,364,938		5,580,116	

Grants to Community Mental Health Centers	3,406,548	4,524,700	5,067,500	
Post Secondary Ed. Com., Incentive Education—Foundation Aid	187,396	423,965	592,990	
Education—Building Aid	3,871,268	3,871,268	4,335,820	
Education—School Lunch	5,343,662	5,481,244	5,580,281	
Education—Handicapped Tuition payment	400,881	552,655	606,069	
Education—Handicapped—Local School Districts	771,750	895,925	926,100	
Salaries	496,125	545,732	595,345	
Benefits	52,201,805	52,201,805	53,395,967	
27th pay period—benefits and FY 78 increments	6,890,268	6,890,268	8,009,404	
Operating Expenses	69,809,566	3,613,950	—	
Indirect Costs—Gross value adjustments 1978/79		73,998,140	78,438,028	
		2,400,000	2,400,000	
Total Deductions	\$181,264,212	\$201,412,339	\$207,533,190	
Less Lapses	8,623,002	5,000,000	5,000,000	
Net Deductions	\$172,641,210	\$196,412,339	\$202,533,190	
Surplus (Deficit)	\$(1,517,098)	\$(25,700,951)	\$(51,482,066)	

GENERAL FUND
UNRESTRICTED REVENUE ESTIMATES
FOR FISCAL YEARS ENDING JUNE 30

	Chapter 35		Fiscal Year	Fiscal Year	Fiscal Year
	Laws of '76	Revised	1977	1978	1979
	Estimated				
Beer	\$4,400,000	4,450,000		4,615,000	4,820,000
Board and Care	8,100,000	7,800,000		9,150,000	9,450,000
Business Profits Tax	30,500,000	30,500,000		31,700,000	33,000,000
Estate and Legacy Tax	6,000,000	6,000,000		5,700,000	5,600,000
Insurance	8,500,000	9,725,000		10,800,000	10,550,000
Liquor	33,000,000	30,300,000		31,050,000	31,650,000
Meals and Rooms	9,800,000	9,800,000		10,800,000	11,900,000
Other	8,100,000	8,200,000		10,675,000	10,775,000
Dog Racing	9,800,000	8,950,000		9,575,000	9,975,000
Harness Racing	2,900,000	2,250,000		2,400,000	2,400,000
Thoroughbred Racing	4,900,000	4,500,000		4,500,000	4,500,000
Telephone	6,000,000	6,100,000		5,900,000	6,200,000
Tobacco	29,325,000	27,100,000		26,800,000	27,300,000
Utilities	1,900,000	1,900,000		2,100,000	2,300,000
Total	\$163,225,000	157,575,000		165,765,000	170,420,000

Prepared for Senate Finance
February 8, 1977, LBAO

Sen. LAMONTAGNE: You are placing a lot of worries on my shoulders when you talk about possibly making a change in the water pollution commitments made by the State of New Hampshire. Does that mean that the State of New Hampshire is not going to honor its commitments to the city of Berlin for their twenty-one million dollar sewerage system?

Sen. TROWBRIDGE: I'm not saying that. I am saying that one way or another we've got a fifty-one million dollar gap. If you are not going to raise fifty-one million in revenue, your going to have to cut it out somewhere else. Its just as simple as that. Now you may cut it out of water pollution, or you may cut it out of somewhere else. That's our function. The Governor will make his recommendation and he has every right to do so, but then the budget process starts here. We will have to see how to bridge the fifty-one million dollars. The gap is there whether you like it or not. How we handle it is our business, and the Governors business, and the houses business and everybody's business. The water pollution grants have been going from three million to six million to nine million because now the city of Berlin is on the line and ready to go. A lot of this is generated by our prior action and other programs we have been building up over the last 6 to 8 years. They are coming to fruition in inflated dollars.

Sen. LAMONTAGNE: Senator you know very well that the State of New Hampshire has made it compulsory for the city of Berlin to go into this water pollution program.

Sen. TROWBRIDGE: Actually, it is the federal government that made the water standards. The State of New Hampshire is administering that program. You're right, it is compulsory as far as the city of Berlin is concerned.

Sen. LAMONTAGNE: I want to go into another subject that I have had many calls about, I understand that some of the people who are on pensions are getting less than they did last year. What is the purpose of that?

Sen. TROWBRIDGE: Remember that we had the constitutional problem that you can't pay more pension except you can grant an increase of pension in one year. This goes back to the revolution. So we have to, pass SB 18, every year. We have to pay out to the pensioners their total increase in one year even though we are mentally thinking it goes for two years. They get the check this year not realizing that it should be thought of as a two year payment. Then the next year another check comes in and its down from the year before and

there is nothing we do about it until we change that constitutional provision. It was on the ballot and we lost.

Sen. LAMONTAGNE: Wouldn't you feel that the people of New Hampshire didn't understand the question? Had it been explained you are telling us now, the people would have adopted it.

Sen. TROWBRIDGE: I think if the people of New Hampshire had the slightest inkling of what we were talking about they would have passed it 100%. But they didn't.

Sen. BLAISDELL: Senator Trowbridge, would you compare the two figures you have, you say its fifty-one million dollars over the biennium. What were you talking about in the last session?

Sen. TROWBRIDGE: You will recall in the last session that there was a supplemental budget from the House. They knew what they could pass and what they didn't have enough money for. There were thirteen million dollars in the supplemental budget as I recall. When the budget came to the Senate side, Governor Dukakis went about his business of helping New Hampshire out and we got word of the tax changes in Massachusetts. We upped the revenue estimates. We were trying to do the right thing in the tobacco tax field. We came out with the conclusion that we could pass the bulk of the supplemental budget. What Senator Blaisdell is referring to is that we were able to bridge thirteen million dollar gap. Then our revenue estimates were too high, but we didn't know that. There is a big, big difference between bridging thirteen million and 51 million.

Sen. BRADLEY: Is the business profits tax figure the gross amount?

Sen. TROWBRIDGE: That's the gross amount.

Sen. BRADLEY: From that we are sending back 75%.

Sen. TROWBRIDGE: Let me show you on table three. Line 10, on any of the tables shows the reimbursements. That's why it nets out to 6 million.

Sen. BRADLEY: On the room and meals tax, doesn't some of that go back?

Sen. TROWBRIDGE: Yes. We really should handle that the same way except the statute says that we just collect it. We keep 60% and the towns get 40%. But we don't run the towns 40% through the budget for reasons that are beyond us. It would be clearer if we showed the gross amount and the 40% going back. Maybe we can do something about it.

Sen. BRADLEY: I don't see the interest and dividends tax.

Sen. TROWBRIDGE: That's because we are just a collection agency and its never owned by the State.

Sen. BRADLEY: And what kind of figure would that be?

Sen. TROWBRIDGE: If that were included in interest and dividends, 100% would go back to the cities and towns, about 10 to 11 million a year.

Sen. BRADLEY: If the state kept all of the business profits tax, all the room and meals and all of the interest and dividends, we would have more than enough to make up the 51 million.

Sen. TROWBRIDGE: No question. If you were to cut out the reimbursement on the business profits tax, that's 25 million a year you'd be in balance. That's why I have always said there is no trick to balance a budget. There are options available if you want to go that way. I'm not so sure that's a good way to go.

(Sen. Smith in the chair)

Sen. HEALY: Could you give us a ball-park figure of what is going to be necessary or what is needed above and beyond these figures here to carry out the functions of a good state government?

Sen. TROWBRIDGE: What you are really talking about, if you wanted to do a job lets say at the State school and wanted to get it over with and get them up so they can get medical reimbursement from the federal government you would go into Dr. Melton's program which is about seven and a half million dollars. You would start that program right off. That will take money in the end because these people would then be qualified to get medicare but thats a big investment. You've got a prison problem, a real prison problem thats about another three million dollars. You name it, there are requests made to our committee in the fifteen million dollar range.

Sen. HEALY: I am wondering if the finance committee can tell just how this money is going to be appropriated and where we are going to get the necessary money to make sure that these hospitals and the state prison and others do get a fair treatment in the future. Are we going to continue under the current set up or are we going to do something progressive to help out these needed organizations?

Sen. TROWBRIDGE: That is beyond my capacity to answer. It takes 201 of the house and 13 of the senate to answer that one. But I think, the Governor is going to make his recommendation on Tuesday and everyone will look at those with great interest to see how he bridges this problem. And at that point the ball is in our court. If we can go along with the Governors recommendation, I hope that we will. If we can't, then we will have to come up with solutions other than his. Its premature for me to say now whats going to happen. What I am trying to do now is to say what is the current position right now so that you can get more fully informed as to the problems and then maybe Senator Healy you can come up with a solution. That would be delightful.

Sen. JACOBSON: I have a few questions that I would like to ask. One relates to the debt service. There is about a 50% increase from table one to table three. Is that due to increased capital investment costs as projected or are they already in the capital building stage and therefore cannot be rescinded?

Sen. TROWBRIDGE: The bond issue that just went out for 62 million dollars relates to the 1971, '69 and '67 capitol budgets. When they are building buildings they build them on temporary loans which were very cheap but there was no principal payment. Eventually they get a package together, wait for the best interest rate that the treasurer can find. Bob Flanders went out with 62 million dollars last week.

Sen. JACOBSON: Senator, what you are saying is that not even any additional capitol investment factor is projected in these figures.

Sen. TROWBRIDGE: That is right. More than that, Senator Jacobson, I hadn't realized until Senator Smith brought it to my attention, to project debt service for the next 30 years of the state. Our debt service goes from nine to twelve to twenty million in the early eighties, and that 20 million is to pay for the bond authorizations that we did in the last two years.

Sen. JACOBSON: On the question of water pollution state aid grants, they are not funded, apparently, on a capitol investment set up? They are funded on a direct grant out of the operating costs?

Sen. TROWBRIDGE: Yes, they are. What we are paying are bond issues from the city of Franklin, lets say, that bond issue has certain principal and interest payments. We pay 20% of the principal and interest payment on the city of Franklin

bond issue. But we don't pay out of bond revenue, we pay it out of direct operating expense.

Sen. JACOBSON: So that the projection for water pollution and control is also only those present projects which have been accepted and developed and out of which the state pays a 20% of the principal payoff each year?

Sen. TROWBRIDGE: Right. These are the things that have been lined up with federal approval, and are ready to go into construction. The reason we can't bond it is that you can't bond the project twice. The City of Franklin has bonded it, o.k., we can't put a bond issue out setting a security for Franklin Water Works because the City of Franklin has already done it.

Sen. JACOBSON: I noticed that the foundation aid rises approximately a half a million in table three. Is there some special reason for that?

Sen. TROWBRIDGE: I think that is just on a six percent basis as well, to the cities and towns that get foundation aid. It doesn't open up any new city or town to foundation aid.

Sen. JACOBSON: Oh I see, because I noticed on table one and table two there was no change and then there was a five hundred thousand change.

Sen. TROWBRIDGE: That's the figure the comptroller used and that's the figure I picked up. We may argue that figure, trying as much as possible to get figures that are the same or should be the same. I don't want to commit the comptroller because the Governor may have changed all of these figures. To my best knowledge, that was the figure he was using last week.

Sen. JACOBSON: These figures on operating expenses and salaries, categories 22 and 24 they also include the payment to UNH and to the system, is that correct?

Sen. TROWBRIDGE: Yes. The salaries are all just the classified and unclassified state employee. They do not go up 6%. They only go up the amount of the step increase that is built in. People who are still not up the top of their grade will have step increases to go. For the University, the University would be entirely in the operating expense because we give a flat grant to the University out of our class 90 funds. The salaries there do not include the salaries of the University employees. That's in their share of the operating expense.

Sen. JACOBSON: The operating expense category number 24 includes the lump payment sum to the University system. I

think in response to Senator Healy you answered questions in regard to Laconia and the prison, were you referring to operating increases of seven million and three million? or were you talking about capitol investment of seven million—three million?

Sen. TROWBRIDGE: Operating. These are guards. They have enormous problems over there and they put it in their maintenance budget because just to maintain the prison this is what we need. Normally it would be what we call a change budget, new positions and all this. A great many of the guards are now funded by grants from the Crime Commission. If the Crime Commission does not pick up those grants and it doesn't look like they will, then they all fall on the State. We've had a benefit for the last three or four years of getting LEAA funding for all the guard positions; but that's going to come to an end whether it's this year or next year. The federal regulations say you can't continue LEAA grants basically beyond three years and we have had them for at least four already.

Sen. JACOBSON: Your figures that you gave for the Laconia school and for the State prison do not include any capitol investment projects.

Sen. TROWBRIDGE: No.

Sen. TROWBRIDGE: In answer to the Laconia State School, there is a new federal statute that I don't know the ramifications of, but in 1978 mandates educational opportunities to all handicapped children in institutions and if that is implemented the way it could be that means you would have to have one teacher for every child. That's why I didn't put that in my figures.

Sen. JACOBSON: Just to comment further that not only goes to Laconia school, it goes to every school district. It figures about eight million dollars.

Sen. TROWBRIDGE: That one as I understand it said that if the State doesn't do it, that the city does it so there is a way for the State to say that we are not going to pick up that tab. There is no way for the State to say it's not going to pick up the tab at the Laconia State School. So that's the difference there.

Sen. JACOBSON: Is it not true that program has been mandated by the federal government without a penny of appropriation?

Sen. TROWBRIDGE: As far as I know, yes.

Sen. JACOBSON: In response to a second question of

Senator Healy, you said there was a way to erase this deficit by ending the disbursements to the cities and towns. If that should be a fact, the net result of that would be a significant increase in the property tax of the local communities, is that the correct statement?

Sen. TROWBRIDGE: Absolutely. I said that only as an accounting measure. You can balance your budget by removing that item. I do not recommend that as an operational thing because of the obvious impact it would have unequally throughout the state.

Sen. JACOBSON: Even if you were to do it, and we are not speaking about doing it, the net result of that action in itself would only be temporary because it would only postpone the fiscal crisis. Is that approximately correct?

Sen. TROWBRIDGE: Well, it would get you through this biennium; but you can see your revenues are rising like this and your costs are rising like that. That's the gap. Your costs are going up in a geometric progression with inflation, and your revenues at this point are peeking out because they deal with packs of cigarettes, bottles of liquor, not the dollars attached to them.

Sen. JACOBSON: The gap factor is not one that has appeared in fiscal '77; the gap factor has actually existed in the previous biennium. Is that not correct?

Sen. TROWBRIDGE: The gap factor has probably always existed but never to my knowledge to the extent of this one. People have been sick of us saying we are always in trouble and then we work it out. Of course you work it out, but in working it out you can see that the percent we have been giving to the University of New Hampshire for instance in the last four years has steadily gone downwards from 34% to 26%. Sure you are bridging the gap, but every single time you are carving away at something. Now the question is not thirteen million dollars, but what do you do with fifty-one?

Sen. JACOBSON: What you are in fact saying is that the gap factor which was running five or six percent back the last few years is actually accelerating by some sort of mathematical square and could continue to accelerate unless we did one of two things: Either cut the expenditures or find revenue some place.

Sen. TROWBRIDGE: Yes. The gap factor didn't really show up either Senator Jacobson because starting in 1973 we had about a 30 million dollar surplus from the revenue sharing

funds. Over that period of time we had a gap of about sixteen million dollars per biennium between revenue coming in and what we are spending. We were drawing down on the surplus so that disguised the gap. Everybody would say we are running out of money, but we had the surplus so we kind of mushed it over and got by. Now all of a sudden we have no surplus, we're starting with a 1.5 million dollar deficit and spending fifteen to twenty million dollars more per year than we are taking in and that's why all of a sudden the gap has become much larger.

Sen. JACOBSON: The fact of the case is that over the last four, five, or six years we have actually been expending more money than revenue we have taken in. Is that correct?

Sen. TROWBRIDGE: That is correct.

Sen. PRESIDENT in the chair.

Sen. HEALY: Looking into the future it seems to me that the State of New Hampshire is depending on the Government to come up with enough dollars to match with federal funds.

Sen. TROWBRIDGE: Well, in almost all of the programs we get, Senator Healy, we have to put up dollars to get federal dollars. For instance, the Medical Assistance Program was not here in 1968. We now spend 12 to 14 million on it to match with another 20 million for a total of 30 to 32 million dollars for the Medical Assistance Program. That didn't exist in '67 when I came here. That federal money coming has pushed our own budget up and it has also expanded the services to the state enormously. But I must say that if the Carter Administration decided to pick up all Welfare lets say, that might help us a great deal. But I don't think they are going to make that decision between now and June 30 of this year. I'm not looking for federal grants to help this situation.

Sen. HEALY: Would you think that the tendency of our State along with the remainder of the government is headed pretty much in the trend of socialism?

Sen. TROWBRIDGE: I would say we are heading for an area of social services here. I don't know if you saw the announcement the other day of the population trends of this country. People are getting older and what's happening is an income shift from the people who are working, more towards helping the elderly and the indigent. That income shift is going on all over the country and the State of New Hampshire is in the middle of this and that's its problem.

Sen. BLAISDELL: The eleven surrounding towns that I

represent for the City of Keene, what can I tell them how are we going to affect them, and when can we give them the answer?

Sen. TROWBRIDGE: I don't think we can give them the answer until June 30 or whenever we end this session because you won't know what we are going to do until then. If you gave an answer now you would be giving the wrong answer.

Sen. SANBORN: Senator, relative to the Laconia State School, which is in basically the same situation as the hospital was in and if we may bring that up to a certain level, isn't it true that we have a potential in the near future on what was discussed this morning? The forensic unit.

Sen. TROWBRIDGE: Yes indeed. Thank you Senator Sanborn. Senator Sanborn is chairman of the Capitol Budget Committee and he is concerned about that. He is right. We are going to have to do something at the forensic unit this session and when you do that, you won't need operational funds there yet, but that is another thing that will come. Another thing we were told is the suit of all the prisoners against the warden which is saying that it is cruel and unusual punishment at the prison. If that suit goes through, and who ever is judge begins to order renovations of the prison by court order there are a lot of things hanging out and that's why I am scared about how we are going to have to face it. One way or another I just don't know how we are going to get around it.

Sen. FENNELLY: I'm interested, Senator Trowbridge, on this water pollution, I noticed in fiscal '77 we allocated three million eight hundred fifty three thousand dollars and in fiscal '78 it jumps to six million three hundred sixty-four thousand. These are projects that are already in the works and are going to be performed, now the question I have for you, with an increase of almost one hundred percent on the aid to towns and cities in the growth in the area of Hudson, Pelham, Salem and Nashua, I just can't imagine what the figure would be in 79 and '80. Its going to run out of sight and go as high as 15 million dollars at this particular rate. Is there any possibility of that? To go that high?

Sen. TROWBRIDGE: I suppose, I haven't looked at those figures to tell you the truth. I was given them once, but they were so astronomical I put them out of my mind.

Sen. BROWN: Senator, in relation to the expenditures and income; the gap you were speaking of, isn't this primarily due to the Congress of the United States enacting programs and

laws and forcing them upon the States? Implementing these programs, funding them for two, three, or four years and pulling the rug out, not funding them any further and we are left to pick up, is this in fact primarily due to that?

Sen. TROWBRIDGE: Well yes and no. We would never have had the Medical Assistance Program had it not been for federal funding. I don't think. But we eagerly embraced it when it was available because you could get \$1.50 for every \$1.00 put in and there are 33 thousand people in the State that use the Medical Assistance Program. It's probably the biggest single program per capita in the state other than schools. So you can say we were forced into it but I didn't notice anybody holding back when the federal funds became available. You can always cut them out and say no we are not going to participate any more. I suppose in some ways we are going to have to consider that. The problem, Senator Brown, is the people out there get accustomed to the fact that they do have their tooth hurting or they need insulin or something, that one way or another there is a program nearby where they will get that drug. And you cut out the Medicaid program, then it's very difficult to go backwards. So I don't know if you can blame the Congress. The Congress was trying to help its constituents by saying we are making available to the States a program they can pick up if they want it. Didn't have to, but we all did. So who's to blame? I don't know.

Sen. BRADLEY: On table one you have a figure for lapses, I gather that figure is not what the normal lapses would have been. These are the forced cuts. Are you able to say how much of that is normal lapses and how much is forced?

Sen. TROWBRIDGE: Five million was normal lapses and 3.2 million was cut.

Sen. BRADLEY: If we hadn't forced these cuts in this year's budget, you would have had much more deficit to start with and if you were working from that base, you would have had to carry that through a couple of times here and the 51 would be six more or something.

Sen. TROWBRIDGE: Well not exactly. Running the operating expense through for the next two years did not take into consideration the 3.2 cut. Other than the fact you would have started with a higher deficit, we did not consider them to be cranked into every formula because the comptroller said he was not cranking them in, and we tried to follow what he was doing. In the last period of the biennium you can take a cut in

all vacancies because you've only got six months to go. You can cut out state travel which everybody is getting permission to do anyhow. You can accept those kinds of things for six months, but you could not accept for 24 months.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 68, 142, 95, 131, 116, 65, 86 and 117 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 95, updating the cancer commission enabling act. To Public Institutions.

HB 142, limiting smoking in places of public assembly to designated areas. To Public Institutions.

HB 117, relative to a town's authority to appropriate for school purposes. To Education.

HB 86, relative to outdoor advertising control along state highways. To Transportation.

HB 131, providing a different method of collecting penalties due the state for late certification filing of certain tax information. To Ways and Means.

HB 65, relative to the procedure for discharge from employment of the superintendent of the county farm. To Executive Departments.

HB 68, relating to administrative functions of the fish and game department in declaring the opening and closing of seasons relative to fur-bearing animals. To Recreation and Development.

HB 116, relative to the taxation procedure in village districts. To Exec. Dept.

Senator Healy spoke under Rule No. 44.

Sen. HEALY: I'd like to say this, as a freshman Senator here I highly appreciate the work of the senate staff, Bill White and his staff have always been very courteous to me and I assume to the rest of the Senators, and think they should be commended for their excellent cooperation in all endeavors as far as working this term. Another area, I found that the Legislative Services has been very cooperative and certainly deserve a compliment from the Senate, there is a large roster there and I have conferred with many of them and found them to be very cooperative, even when the place is like Grand Central Station. Many of them carry their work to their homes over the weekend and I think too that the President of the Senate should thank them and express our appreciation for the services they render the Senate.

Senator Foley moved the following resolution:

Resolution

WHEREAS, the month of February has been proclaimed as Black History month, and

WHEREAS, Black History Week will be observed by the Portsmouth Naval Shipyard, Pease Air Force Base, the city of Portsmouth and the town of Kittery from February 13 to 20, 1977, and

WHEREAS, the Black citizens of this state and this country have made distinctive and significant contributions to the strength and continued growth of this nation, and

WHEREAS, their uncommon zeal, worthwhile input and dedication have helped create this America the beautiful, and

WHEREAS, Black Americans have always been willing to give much more of themselves than was asked of them, thereby being instrumental in making this country an acknowledged world leader, therefore be it

RESOLVED that the Senate of the State of New Hampshire hereby joins in the celebration of Black History Month and urges the citizens of New Hampshire to take cognizance of this event and participate fittingly in its observance.

Adopted

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in

order at the present time, and that when we adjourn, we adjourn until Tuesday at 12:45.

Adopted.

Late Session

Senator Keeney moved to adjourn at 4:40 p.m. until Tuesday at 12:45 p.m.

Adopted.

Tuesday, February 15

The Senate met at 12:45 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Guide us, Oh Father, this day with thy spirit—as we meet here to resolve the impending problem which faces our State.

With thy help, it is possible to surmount this States' financial crisis so we may be able to continue with the programs which are so beneficial to so many people, and meet our responsibility to them.

In this light—may we have the understanding and the compassion, now, and in the days to come.

Amen

Senator McLaughlin led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

First and Second Reading and Referral

SB 85, relative to the authority to levy tolls on the eastern New Hampshire turnpike, the central New Hampshire turnpike, and the New Hampshire turnpike system. (Rock of Dist. 12; Monier of Dist. 9; Fennelly of Dist. 21; McLaughlin of Dist. 13—To Transportation)

COMMITTEE REPORTS

SB 44, relative to the financial security of horse and dog race licensees. Ought to pass with amendment. Senator Downing for the Committee.

Sen. DOWNING: Mr. President, the amendment to **SB 44** is in two parts. One part is offered by the sponsor in concurrence with all the people who were present at the hearing and agreeing with the bill. That was the time the attorney general should have to investigate a license. The original bill said that he would report within six months and that was reduced to 90 days and all parties concerned feel that's adequate too. The other was a bonding limit not to exceed three hundred thousand dollars. The Executive Secretary of the Grayhound Racing Commission suggested a level of two hundred thousand dollars from the present fifty thousand dollar level. This is discretionary bonding and the commission can require a higher bond if they feel it is necessary. The committee, after hearing the testimony, thought that it would probably be more reasonable to set it at three hundred thousand instead of the two hundred thousand. Again, its anywhere within that amount that the commission actually sets the required bond. Now its discretionary, although it has been the common practice to refer license applications to the attorney general's office for investigation. This would make it mandatory and in fact the attorney general could initiate investigation on his own. It requires that owners of licenses when they have any adverse change in their financial status they report it to the commission. The commission is responsible to monitor the financial conditions of license holders and licensed applicants; but this puts a little more responsibility beyond the licensed applicant to himself to report to the Commission when things change. The Executive Secretaries of the Grayhound Commission and the Horse Commission, and the Attorney General's office were in favor of the bill, and I urge your support as amended.

Amendment to SB 44

Amend RSA 284:15-b, IV as inserted by section 2 of the bill by striking out same and inserting in place thereof the following: IV. The attorney general shall have the authority to

conduct an investigation on his own motion into the background of the license applicant or holder, of any person included in paragraphs I, II and III, or of any person or entity upon whom the license applicant or holder relies for financial support. In addition, whenever the commission shall receive an application, it shall refer the same to the attorney general who shall conduct such an investigation. Said investigation may be conducted through any appropriate state or federal law enforcement system and may seek information as to the subject's financial, criminal or business background, or any other information which the attorney general, in his sole discretion, may find to bear on the subject's fitness to be associated with racing in New Hampshire, including but not limited to the subject's character, personal associations, and the extent to which the subject is properly doing business in the manner in which it purports to operate. When the commission requests such an investigation, the attorney general shall report the results of his investigation to the commission within 90 days after the receipt of said request. Notwithstanding any law to the contrary, the results of any such investigation shall be confidential and shall not be subject to disclosure or to public inspection, except that the attorney general, in his sole discretion, shall determine the extent to which and the manner in which said results may be reported to the commission or other state agency or official and, if reported, whether such results are to retain their confidential character.

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Bond Increased. Amend RSA 284:18 by striking out said section and inserting in place thereof the following:

284:18 Bond of Licensee. Every person, association, or corporation licensed under the provisions of the preceding sections hereof, shall, before said license is issued, give a bond to the state in such reasonable sum not exceeding \$300,000, as may be fixed by the commission, with a surety or sureties to be approved by the commission, conditioned to faithfully make the payments prescribed hereby, including the compensation of stewards or judges employed by the state of New Hampshire at any race or meet and that such reimbursement shall include the employer's share of old age survivors insurance (OASI) taxes, and to keep its books and records and

make reports as herein provided and to conduct its racing in conformity with this chapter and with the rules and regulations prescribed by the commission.

7 Effective Date. This act shall take effect 60 days after its passage. Amendment adopted. Ordered to a third reading.

INTRODUCTION OF SENATE RESOLUTION

Senate Resolution No. 3

Memorializing Marion Alexander for her service to the State.
(Lamontagne of Dist. 1 and Gardner of Dist. 4)

SUSPENSION OF RULES

Senator Rock moved that the rules of the Senate be so far suspended as to allow Senate Resolution No. 3 be placed on second reading at the present time.

Adopted.

SENATE RESOLUTION NO. 3

memorializing Marion Alexander for her service to the state.

Whereas, Marion G. Alexander was born and raised in Boscawen, attending local schools and Wellesley College, where she majored in English and earned Phi Beta Kappa honors; and

Whereas, following her schooling, she spent a short period teaching in Berlin before taking positions at Rumford Press, the secretary of state's office and then the attorney general's office; and

Whereas, Miss Alexander served under 17 attorneys general and 28 of their assistants, and, after retiring from the attorney general's office, worked in the office of legislative services where she continued to share her good judgment and experience on legislative affairs with staff members and legislators; and

Whereas, Miss Alexander spent over fifty years in state service drafting bills and resolutions for the General Court and drafted more of the laws of New Hampshire than any other person; and

Whereas, although Miss Alexander had no formal training

in law, she became an expert in state laws and parliamentary law and her advice was widely sought and respected in these areas; and

Whereas, Miss Alexander served as vice-chairman of the Governor's Commission on the Status of Women, where she worked to eliminate discrimination against women in employment and jury service and to guarantee equal pay for equal work; and

Whereas, Miss Alexander died recently at the age of 91 and her loss is a genuine loss for the people of New Hampshire and the many legislators she worked for, and her career will serve as an example for state employees to emulate and strive to equal; now, therefore, be it

Resolved by the Senate:

That we dedicate ourselves to the remembrance of Marion G. Alexander and all that she stood for in her unselfish dedication to the people of New Hampshire, and that we attempt to live by her example in practicing toleration and patience in the conduct of our legislative business.

Adopted.

Senator Monier moved that **SB 35** be taken from the table.

Adopted.

Senator Monier proposed an amendment to **SB 35**.

Sen. MONIER: Just merely to remind the Senate that **SB 35** was the bill with regard to the incompatibility of certain town officers, town treasurer and town clerk and Senator Trowbridge and I carried on a discussion, and we both agreed, if you remember, on the floor to table it to offer an amendment. I went to Legislative Services for an amendment that would resolve the question that was raised, and it's in front of you. Any person holding both the office of town treasurer and town clerk as of the effective date of this act shall be permitted to serve out his current terms in both positions, meaning that 60 days after we pass this, which would take care of the town meeting in 1978, he would not be able to file for both offices. I personally mentioned this to the committee this morning and it was an unanimous

agreement to accept this and I urge the Senate to pass it and then the bill is off our backs.

Amendment to **SB 35**

Amend the bill by striking out all after section 1 and inserting in place thereof the following:

2 Transition. Any person holding both the offices of town treasurer and town clerk as of the effective date of this act shall be permitted to serve out his current term in both positions.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to a third reading.

SUSPENSION OF RULES

Senator Downing moved that the senate rules be so far suspended as to place **SB 35** and **SB 44** on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

SB 35, relative to the incompatibility of certain town offices.

SB 44, relative to the financial security of horse and dog race licensees.

Adopted.

Recess.

Out of Recess.

HOUSE MESSAGE

Mr. President:

The House of Representatives is ready to meet at 1:10 p.m. in joint convention with the Honorable Senate for the purpose of hearing the Governor's Budget Address.

Recess.

Out of Recess.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday at 3:00 p.m.

Late Session

Senator Brown moved to adjourn at 2:00 p.m. until Wednesday at 3:00 p.m.

Adopted.

Wednesday, February 16

The Senate met at 3:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh Lord, who hath made of one blood all nations upon the earth. We thank thee for thy servant Abraham Lincoln, the great emancipator.

May we like him, be more concerned with malice toward none and with charity for all as we observe Black History Month. Memorializing their contributions to this State as well as to the nation as a whole.

Let justice be our guideline and equality our goal.

Amen

Senator Smith led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

INTRODUCTION OF SENATE BILL

First and Second Reading and Referral

SB 86, making an appropriation for capital improvements at Winnisquam Lake dam. (Gardner of Dist. 4—To Capital Budget.)

SUSPENSION OF SENATE RULES

Senator Sanborn moved that the Rules of the Senate be so far suspended as to dispense with the committee hearing, the notice of report in the journal and to place **SB 86** on second reading at the present time.

Sen. SANBORN: Mr. President, to explain the reason that this bill is before us at this time, I would like to read to the Senate a letter from George McGee, Sr. as follows:

The New Hampshire Water Resources Board is requesting an additional sum of \$40,000.00 to allow it to complete its necessary reconstruction of the dam at the outle of Winnisquam Lake located in the town of Belmont and Tilton, New Hampshire.

The initial appropriation of \$114,000.00 was authorized in the '74 Session and during the past year the Board has undertaken the construction of this project and have found that the appropriation is inadequate to complete the required work for the following reasons:

The passage of time and the inflationary rise over the past two or three years has increased the cost of concrete alone from the original \$18.00 per cubic yard to above \$32.00. The gate operating equipment rose two and one-half times the anticipated price; and during the course of excavation of the main stone timber structure it was found that the foundation itself had been severely undetermined by leakage and required an additional 300 cubic yards of concrete. At the present time the Water Resources Board has sufficient funding to

work through the end of February. These funds will allow us to finish sufficient concrete work so as to allow us to seal the dam off from high water conditions. However, the concrete walkways across the gate section for supporting the gates will not be completed. The gates themselves cannot be installed. The removal and reconstruction of the downstream canal and embankment will not be completed. The replacement of the extremely hazardous bridge over the canal will be left in its present condition thereby continuing the hazard.

Without additional funding the remaining work would have to be undertaken from Maintenance of Dam funds which may be available after July 1st. Additional costs of approximately \$5,000.00 would be incurred by moving our construction crew off from this project and back on to the project at a later date. During this time lag additional costs could be incurred for materials, etc., which could amount to an additional \$5,000.00

Sen. SANBORN: Mr. President, this is the reason we have requested that this bill be passed at this time if we delay the passage of this bill too much longer it is going to cost us an additional \$10,000 just for moving the crew and putting them back on again. So at this time we would like to see this bill passed, sent to the House and hopefully get it through there before next week so we can save the additional cost which might be incurred if we let this project lapse.

Sen. GARDNER: Mr. President, naturally I am in favor of this bill because it affects my area mostly as well as the Lockmere area and I know that its quite necessary because of the water level in the summer to have this finished. I think that the State would do well to pass it and save the extra expense.

Sen. SMITH: Mr. President, I also arise in favor of the bill. The dam is located in my district and if it washed out it would probably flood three of my towns but in addition to that it would drain the district of Senator Gardners.

Sen. TROWBRIDGE: I'd like to make one additional remark, Mr. President, that this is a bond issue, it's an addition to the bond issue which we passed in '74 and therefore this is not out of the general fund appropriation, it is a bond issue for 20 years.

Adopted.

SB 86, ordered to a third reading.

HOUSE MESSAGES

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved that in accordance with the list in the possession of the Clerk, House Bills 121, 60, 120, 5, 90 and CACR 5 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 121, relative to town officers' associations. To Executive Departments.

HB 60, relating to registration and examination fees for professional engineers. To Executive Departments.

HB 120, making a supplemental appropriation for the board of registration for professional engineers. To Executive Departments.

HB 5, relative to regulating the licensing of cosmetologists. To Administrative Affairs.

HB 90, limiting the availability to foreign partnerships of certain trade names. To Administrative Affairs.

CACR 5, relating to granting of pensions by the legislature. To Rules.

INTRODUCTION OF SENATE RESOLUTION

Senate Resolution No. 4

In opposition to the action of the President of the United States pardoning the draft evaders. (Referred to Rules)

COMMITTEE REPORTS

SB 28, establishing the Lamson Farm Commission in Mount Vernon. Ought to Pass. Senator Hancock for the Committee.

Sen. HANCOCK: Mr. President, **SB 28** establishing the Lamson Farm Commission in Mount Vernon has been considered by the Executive Departments and Municipal and County Government Committee, and it is their unanimous recommendation that the bill ought to pass. The Lamson Farm is a 300 acre piece in the town of Mount Vernon and it has been accepted by the town, and it is the wish of the town, that the Commission be established in order to manage and preserve the historic value of that tract of land. It is also hoped that eventually it will become an income producing property and I might add that if this tract is approved, the voters of the town of Mount Vernon at a regular town meeting will have to approve and appropriate the money necessary to carry out the program they had in mind.

Adopted. Ordered to a third reading.

HB 92, legalizing a special town meeting in Pittsfield. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill legalizes a special town meeting in Pittsfield which was held in October of '76, where the town voted to borrow money to construct a refuse disposal facility. It was a one item town meeting but because of a technicality in posting what was referred to as an M-7 form an item budget form, it has raised questions in the legality of this meeting. The selectman and representatives appeared in favor. There are no objections whatsoever and we recommend that the bill ought to pass.

The amendment has been passed around to the desks of my fellow Senators referring to the legalization of a special town meeting for the Town of Newington. The meeting was held on January 28; an emergency meeting called by permission of the Superior Court to borrow some \$50,000 to defray expenses for preparing plans and specifications for a new sewerage treatment plant. Those present and voting, the vote was 86 to 24, and for the very reason a technicality on posting of this line item, as the town of Pittsfield. I have affidavits from the selectmen and Attorney Upton and they all agree to doing it in this manner.

Senator Preston moved the following amendment:

Amendment to HB 92

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

legalizing a special town meeting in Pittsfield and proceedings of a special town meeting of Newington.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Town of Newington. All acts, votes and proceedings of the special town meeting of the town of Newington held on January 28, 1977 including the votes on articles 1 and 2 of the

warrant, relating to a sewage disposal system, are hereby legalized, ratified and confirmed.

3 Effective Date. This act shall take effect upon its passage.

Sen. BRADLEY: This form is a form from the revenue department?

Sen. PRESTON: Yes, it is requested by the department of revenue and administration in both cases. This M-7 form is a technical requirement, they posted all the information but they didn't use this particular form in the public posting listing the amounts of money.

Sen. BRADLEY: What does the Revenue Department say about the bill, did they have any position on it?

Sen. PRESTON: They did not appear there, but it was stated in testimony they supported it. It's one of their requirements which the towns evidently did fulfill and they told them if they did not legalize the meeting that they would be questioned by bond council.

Sen. MONIER: Mr. President, let me arise in support of the amendment and perhaps to respond to a question. The M-7 form is a line item form which lists the monies in a particular line-out-of-way, or the revenue administration, they forgot to post that with it. That's what it boils down to.

Amendment adopted. Ordered to a third reading.

HB 84, relative to temporary loans issued under the municipal finance act. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this act enables towns to use short term financing in lieu of a bond if its to their advantage. If there is a better interest rate on short term money, which there is at present, they can repeat short term loans as long as they don't exceed the term of the original bond. It's a help to towns to enable them to save a few dollars in their financing.

Sen. BOSSIE: Senator, any bill sponsored by Rep. Bednar and Wiggin is automatically suspect in my mind. I'd like to know basically, Senator, what the impact of this will be, what is the actual function in the town? I realize you are a selectman as well as a Senator and I think you could explain it well.

Sen. POULSEN: Where my name is on the bill it follows the same chapters that the original lending comes under. As I studied it, the only thing I see that it does do is that it clarifies the ability to go from one short term note to another as long as the payment is made each time so that the total sum of years that the loan is good, which is up to 30, or the life of the equipment which ever it is. As long as that is not exceeded, do it by short jumps instead of the long term bond.

Sen. SMITH: I have the same reservations that Senator Bossie had and it seems to me that I have seen this legislation before. In effect what you are saying in this bill, if the town of Littleton floats a bond issue or has a sewerage project and has to borrow a million dollars for this, that the town could borrow on a short term basis and pay off on a short term basis over a period of years be reborrowing every year?

Sen. POULSEN: Reborrow provided that they cleared up the first note before the second one became effective. In other words, they can't have the town notes overlapping. In paying up the first note in order to get the second note they would have to pay up the first note.

Sen. SMITH: Is there anything in the bill which requires a reduction in each year in the amount of principle?

Sen. POULSEN: I think that is in the chapter, I don't think this effects that anyway. That's in the original chapter and in response to your first question, the history of the bill, it was in last year and killed for the lack, I believe, of the last sentence here which made the total time be the allowable time under 33:2.

Sen. SMITH: Would you explain Senator what RSA:33:2 is?

Sen. POULSEN: That's the one that allows the towns to borrow and designates the payments interest over the period of time, and limits the time of loans to 30 years unless shorter time is required because of the depletion or wearing out of whatever is being borrowed.

Sen. SMITH: In other words, Senator, if the town had a sewerage project, it could borrow annually on a short term basis reducing proportionately each year the principle and borrow on an annual basis over a period of 30 years?

Sen. POULSEN: That's right. They could do that and probably should do it if it is to their advantage on the interest rate to borrow on short term. Bonding at the present, your

rate of interest is worse than on the short term.

Sen. SMITH: Are you telling me then, Senator, that the selectman or precinct commissioners of the town have the expertise to tell me a year from now what the interest rates are going to be on short term versus long term borrowing?

Sen. POULSEN: I think they have the expertise to see what the difference between the two were at the time and make the judgement from that.

Sen. SMITH: So that, if two years from now or three years from now and the short term borrowing or the credit of the town became questionable, and the banks would no longer be willing to borrow on a short term basis, what then would happen and what would the town have to do?

Sen. POULSEN: The question you ask has many possibilities, but I can't visualize some of them, I think they still have the ability to make up their mind year by year or two years by two years, whatever the term of the short terms are.

Sen. SMITH: Senator, are you familiar of what has happened in the State and City of New York in reference to their borrowing and turning the money over year after year and the lack of faith the banks had both with the city and with the State of New York. Also the Housing Authority in the state of New York and also the problems the state of Massachusetts has been involved with on short term borrowing in the last two or three years?

Sen. POULSEN: I am aware of what I have read in the paper, but I don't think the same aspect applies to the ordinary town in New Hampshire which we are dealing with.

Sen. SMITH: Senator, are you willing to guarantee that over the next 30 years for all the towns in the state of New Hampshire with financial problems which we have heard about in the last two days.

Sen. POULSEN: I am willing to guarantee nothing Senator.

Sen. Smith moved to indefinitely postpone HB84.

Sen. SMITH: Mr. President, I arise in opposition to this bill. I think that this bill and the intent which is an attempt to allow the amount of flexibility for selectmen, for County Commissioners, is a dangerous precedent which is one which I think we have experienced in the money markets in this country only too recently. I believe strongly that the problem that we could incur from the passage of this bill could repeat in New Hampshire the same problems which have occurred in Massachusetts and New York. I think that this bill is a very bad precedent. All

kinds of financial people will give you all kinds of tips, six months from now or a year from now, that interest rates will lower and their judgment is as good as anybody else's, and it generally does not happen that way. I think that we really could have gotten ourselves, as a State, into a very bad bind for allowing long term, short term borrowing. A town should make a commitment on a sewerage project. You know you are going to live with it for 30 years and in the long haul you are going to be much better off with a bond issue. I just am abhorred that this bill should reach the Senate at this juncture.

(Sen. Saggiotes in the chair)

Sen. SANBORN: Senator, I am not too clear in my mind, perhaps you can set it right, but isn't there a difference between the vote taken at a town meeting relative to a bond issue and to short term notes of loans?

Sen. SMITH: I believe you are correct Senator, and I think on short term borrowing, it's by simple majority, whereas on a bond issue you need a two-thirds vote.

Sen. LAMONTAGNE: Senator, could you tell us at the hearing was there anyone who appeared in opposition to this bill?

Sen. POULSEN: Senator, no one was opposed to the bill at all.

Sen. MONIER: No, no one opposed the bill at the hearing and if there are no further questions of Senator Smith, then I want to speak in opposition to this motion.

Sen. BRADLEY: Has this been passed under bond council?

Sen. POULSEN: In order to qualify it would have to be. They didn't testify on it. I don't know if bond council has ever testified on legislation.

Sen. BRADLEY: I must say I am having real difficulty understanding whether this bill does what Senator Smith is worried that it does. And I have real trouble understanding it and I thought I was getting good at being able to read statutes. I was looking for the difference between the present law and this. It seems to me these last two sentences and I guess what the question is, what do those last two sentences mean? They don't make real sense to me.

Sen. POULSEN: I think it could be stated simply that be-

fore a town takes a bond, they are allowed under the law now to have short term borrowing for two years while they negotiate. And I think this allows them that ability repeated over and over again within the original terms of limitations that they would be allowed to payback the borrowing.

Sen. ROCK: Senator, your questions and your remarks have interested me and I wondered at the early stage of the session, and because of the finality of the motion which you made, if you would be willing to withdraw your motion in lieu of a motion of a motion of a less final nature and have this bill recommitting to get some of the answers that have also been asked by recommitting it to committee. Would you consider withdrawing the motion?

Sen. SMITH: My answer to that question, I believe that I am in error of that two thirds vote on the short term borrowing. However, it is much easier under the short term borrowing. . . . In addition I would say, in my view what this bill does is to allow the selectmen to speculate in the money markets. Yes I think it would be fine to send back to committee. May I withdraw my motion?

Sen. JACOBSON: I speak not as a Senator but as a Selectman. There are some problems that have been raised and I'd like to speak to a couple. Number one is that the situation that exists in New York city does not have anything to do with our problem in New Hampshire and with this issue here. The problem in New York City, and elsewhere, is the bonding or operating costs. And when you bond for operating costs you have a very serious problem because your operating costs continue and then you have to pay off the previous operating cost. And that's where they have gotten into trouble. In New Hampshire the cities and towns cannot bond for operating costs. They have only bonded for capital projects and if the capitol project is small enough, for example, such as a truck or some other piece of equipment, they simply pass it through a majority vote and it becomes part of the annual appropriation. Or it can be bonded over for a short term such as a fire engine, which costs up to \$70,000 or more, can be bonded over two or three years. Or if you are going to build a school building, because the school district is a municipality as well as the towns then you have bonding of 20 or 25 years. What this bill does in essence is to allow a little bit of flexibility with respect to whether or not you are going to borrow on the short term or whether you are going to borrow on the long

term. This is more or less due to the fluctuations of the financial market. If for example, at the end of a year the short term rate was higher than the long term rate you could then move from short term to long term if required. However, once you got into the long term, you can't go back to the short term. So that's the rub of it. But, it only relates to capitol equipment and does not involve the general operating costs. If a town were in a position of having a low credit rating, it probably couldn't get a short term cheap. It would probably be higher than the long term and the long term would probably be impossible, so that there are financial constraints within the financial community with respect to this borrowing. I did want to point out that is not the same kind of problem as New York and it does grant a basic kind of flexibility for selectmen, particularly, with projects that are under \$100,000.

Sen. SMITH: Senator, I believe what you say is true that they did borrow on operating costs also, but they did a terrific amount of borrowing also on long term for the housing. I think it is a combination of the two. I wondered if you would not think that this was a dangerous precedent to allow this type of financing which if the money gets tight the towns, the State, and the precincts and counties might find themselves in a very difficult situation in trying to borrow on a short term basis whereas with the long term the tight money market would have no affect.

Sen. JACOBSON: Two things. First of all the problem in New York city is very complex one of which is the eroding tax base which has eroded very significantly so that the revenue productivity is down considerably and that's one of the problems. Another problem is that our Department of Revenue Administration according to the statutes does not allow a municipality beyond a certain percentage of its tax base. So pality could not proceed and I don't know of any community at the present in New Hampshire that is in any danger with respect to it's tax base, so that municipal bonding is not in danger. If we came to that position where one of our cities or one of our towns had significant erosion of it's tax base then you get exactly the problem that you speak of Senator.

Sen. LAMONTAGNE: Mr. President, members of the Senate, I don't see anything wrong with this bill. I don't think the remarks that have been made by the Senator of the third district to this bill here. As far as I am concerned there is no question

about it that by getting these temporary loans on the short term, it is a lot cheaper for interest than it would on the long term notes. If the Senate wants to take a look at this once more. I have no objections to that. Personally, I feel that this bill is in order to be passed today.

Sen. MONIER: Mr. President I don't particularly care if they want to send it back to committee again. I want to question what we do with some of these things. In the first sentence I would like everyone to take a quick minute to read it. All the talk about bonds and how we vote on them has got nothing to do with this. That is already something that's accomplished and this is talking about a subsequent act. With all due respect, I hope everybody will keep that in mind. The officers, which is usually a selectman in a town, authorized to issue the same in the name of the county or municipality to get a temporary loan or a loan in anticipation of the money to be derived from the same such bonds or notes and may issue temporary notes thereof from time to time which are payable not later from the two years from the date of issue. One of the things this did was change something in the law that was done in the committee of conference in the records of the House and Senate in 1975 which changed it to a one year. This puts it back to a two year basis and gives the flexibility of time. The second thing is as Senator Jacobson saw it that it give's flexibility to the selectmen on whether they want to do the short term or the long term. This has nothing to do with adding borrowing power, changing borrowing power or anything else. It has nothing to do with a bond. If the bonds have already been passed then this action can be taken. If they haven't passed, this action has nothing to do with them. I just don't want the issue to be confused.

Sen. Bossie moved that HB 84 be made a special order for March 3, at 1:01 p.m.

Sen. BOSSIE: Mr. President, I ask this for several reasons. Several questions have been raised here today and I think it has been resolved but it's a problem that I see. I see this in many bills, the effective date shall take effect upon it's passage. As we know if this passed today, by the time it went to Senator Lamontagne's committee and came back it could pass prior to town meeting day. In fact Friday of this

week is the last day in which warrants are posted and everything in a warrant has been met and all these bonds have been done anyway, rather than to confuse the issue with anything that could possibly take affect, I think it would be wise to do that and in the meantime anyone that represents a town can consult with their various towns to see if this is good or bad as far as they are concerned.

Skn. BRADLEY: I arise in support of the motion. I have nothing against what I think may be the purpose of this bill. I'm not sure that Senator Smith's concerns are justified in that I'm not sure I think the bill does what he thinks it does. What really bothers me is that, I've read the present section 7-a, I've the section they referred to in here 33:2, and compared them. I think all this bill does is eliminate the present last sentence of 7a and adds these last two sentences. I read those last two sentences and I cannot make sense out of them. And I defy anybody to tell me what those last two sentences mean. You read them. You try to tell me what does that mean? The payment equivalent to the amount of the principle on such bond must commence pursuant to RSA:33:2, if you read 33:2 it has requirements in there that are totally inconsistent. It seems to me with what we are trying to do here and this payment equivalent to the amount of the principle that sounds like its the whole thing to me. It just doesn't make sense and I think we ought to make legislative services have a hard look at this and make sure they have written it up to accomplish the sponsors purposes.

Adopted.

(Sen. President in the chair)

HB 10, establishing an age limitation for deputies and special deputies appointed by the sheriffs. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill makes mandatory the retiring of deputies and special deputies at age 70. The committee found no reason to do that. These men are directly under the control of the sheriff. The sheriff can certainly not reappoint them each year. It's purely his own decision and if he is a good court bailiff at age 75 and still active and able, there is no reason in the world why he should be knocked off, particularly if he is usable and the sheriff wants him, why the

sheriff has a right to appoint him. The committee could find no reason to do this and we recommend that it be inexpedient to legislate.

Sen. ROCK: I arise in support of the committee recommendation inexpedient to legislate. I had several members of my district who serve perhaps one day a week or two days a month in this capacity, it gives them an opportunity to keep busy and have some contact with people they have worked with previously. I just see no need for that legislation.

Adopted.

SB 36, relative to the town budget of non-municipal budget act towns. Inexpedient to legislate. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, this bill was requested by the Department of Revenue and it would require that the town budget committee or the selectmen prepare the annual budget on a gross basis so that the revenues from every source including grants, gifts, requests, and bond issues be shown in the budget. We really had no difficulty with that. The thing we did have difficulty with, however, is that it is almost impossible to anticipate when funds might become available during the year. For example, there are congressional bills now pending which we hope may give funds to communities for public work projects, and under this proposal such funds could not be accepted without having a special town meeting as we interpreted it. Also precluded would be CETA funds which are given directly to the town by the, for example, Hillsboro County Manpower Commission and we had opposition to the bill from the N.H. Municipal Association and N.H. Charitable fund.

Adopted.

HB 33, repealing the statute relevant to reinstatement of World War II veterans' licenses. Ought to pass. Senator Gardner for the Committee.

Sen. GARDNER: Mr. President, this bill concerns reinstatement of veterans' licenses and it was passed in 1943. It was passed to take care of persons who at the time of entrance in military or naval service who had a license in good standing from any boards and most of them were professional and it provided that military and naval forces, this the military and naval forces the term used in the bill, will include marine corps, coast guard, or any women's auxiliary services to the arm forces the members of which were subject to and under military law. A reinstatement was allowed to any licensee who served in the United States military or naval forces without further examination of the requirements provided he was not incapacitated from performing the work permitted by such license. The boards were mostly professional. At the hearing it was suggested by some that they amend the bill to include boards that have been passed since. Well, there are 12 boards that have been passed since this bill went through. To their knowledge there is no one taking advantage of this provision at the present time. It was felt that it was better to recind the law and if necessary if we had another war provide for all the boards at the time that it was needed and the committee voted unanimously to pass this bill.

Sen. BRADLEY: If we adopt this bill, as I read it, we will be repealing two laws that are now on the books and if we don't go any further in our calendar, that will mean that we have enacted two laws and repealed two, which seems to me is not a bad goal to attempt to achieve.

Sen. LAMONTAGNE: The Department of American Legion had appeared in favor of the bill.

Adopted. Ordered to a third reading.

Senator Lamontagne spoke under rule No. 44.

Recess.

Out of Recess.

Senator Trowbridge moved that since Senator Lamontagne was on Senate business on February 15 in Washington D.C. he therefore be deemed present.

Adopted.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday at 1:00 p.m.

Adopted.

Late Session

Third Reading and Final Passage

SB 86, making an appropriation—for capital improvements at Winnisquam Lake dam.

SB 28, establishing the Lamson Farm Commission in Mount Vernon.

HB 92, legalizing a special town meeting in Pittsfield and proceedings of a special town meeting of Newington.

HB 33, repealing the statute relevant to reinstatement of World War II veterans' licenses.

Adopted.

Senator McLaughlin moved to adjourn at 4:20 p.m. until Thursday at 1:00 p.m.

Adopted.

Thursday, February 17

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, we thank you for the heritage of this land—and the abiding faith of the leaders in their several generations.

Especially our first President, George Washington, who was filled with a love of freedom of his country, and a developer of that liberty which has come down to us today.

May we with thy help maintain peace and freedom with liberty throughout the world.

Our own weakness shows in our constant askance of thy help. But Lord, with this comes a faith strong and abiding that is always with us—and our grateful thanks to thee!

Amen

INTRODUCTION OF SENATE BILLS

First and Second Reading and Referral

SB 87, prohibiting adult persons of the same sex from consorting in a lewd or licentious manner in a public place. (Monier of Dist. 9; Rock of Dist. 12; McLaughlin of Dist. 13—To Judiciary)

COMMITTEE REPORTS

SB 2, permitting optometrists to advertise prices for glasses and contact lenses. Ought to pass. Senator Healy for the committee.

Sen. HEALY: Mr. Chairman, I stand in favor of a bill submitted by Senator Rock in reference to a change in the optometrical rules and regulations pertaining to advertising the price for glasses and contact lenses. We had a meeting where there were a great many supporters and nonsupporters. I would say some of the members of the optometrical association were opposed to it. But, going into background and intelligence reports, we find there is a considerable amount of support for such a bill. I have here an intelligence report which was issued by freight special and I would like to read a brief section of it. About $\frac{3}{4}$ of the states prohibit advertising of eye glass prices.

Result is that the price of eye glasses in those restricted states is at least 25% higher then it is in such states as Texas, Iowa,

Utah, Colorado, Minnesota and nine other states. Among the nine other states is the State of Massachusetts. In Texas for example it is possible to have a prescription for eyeglasses filled at \$20.00. In California where regulations prohibit advertising, a person's opportunity to determine where he should buy his glasses is limited. Under this situation we have found that the same pair of glasses may be available for \$15 in one store and between \$50 and \$70 in another store nearby. Also in reference to his report and other report by M. Smith who is acting director of the Federal Trade Commission, she said that half of the bifocals and up to 80% of all single vision lenses are mass produced, stamped out by formula-set machines. The federal trade commission proposed a rule to band restrictions on advertising whether its by state law or by professional association, the agency released a report saying the investigation shows restrictions amount to self serving secrecy which harms consumers. I think one of the most important phases of this was the fact that even though many of the consumers were not present at the hearing and may have liked to be but perhaps due to working conditions, I have a petition that was signed by perhaps a dozen or more people advising Senator Rock that they were the believers in free enterprise. And we feel that in the best interest of the public, passage of this bill will best serve the people. The petition was submitted by Alan Rock and I think it pretty much sums up the bill itself.

Sen. SAGGIOTES: Senator Healy, did you state that there was some opposition to the bill at the hearing?

Sen. HEALY: At the hearing itself, there was no verbal opposition. I heard none. Perhaps Senator Rock can answer that question.

Sen. ROCK: To my recollection Senator Saggiotes, the only opponents of the bill were indeed optometrists, but there were no other opposing voices at the hearing.

Sen. SAGGIOTES: Senator, were there any optometrists who appeared before the committee that were in favor of the bill?

Sen. HEALY: Yes, there were several. I would say possibly five.

Sen. SAGGIOTES: How many optometrists appeared in opposition?

Sen. HEALY: They were all in opposition to the bill.

Sen. SAGGIOTES: Were there any optometrists present at the hearing that supported the bill.

Sen. HEALY: No, none that I know of.

Senator Saggiotes moved that **SB 2** be indefinitely postponed.

Sen. SAGGIOTES: Mr. President, the reason why I asked for the previous motion was to give me some information. I do appreciate the willingness of the Senators for giving me that courtesy. Having received that information on the floor, I am ready to vote on this bill at the present time and I feel very strongly that this type of legislation could set a precedent to allow advertising in other professions. I do think there are many problems that would arise if we did allow the optometrists to advertise. One of the main reasons that I believe that might have been mentioned at the public hearing is that due to competitive prices the consumer will be the loser in the end. Probably not in dollar savings but more so the possibility of his health, his eyesight. For these reasons I cannot support the bill.

Sen. SANBORN: Senator, do I gather from the questions that you asked Senator Rock and your remark just now, do I gather that somebody that is so called professional is a sacred cow that we cannot look at relative to what their charges are?

Sen. SAGGIOTES: Senator, when we have our good health, I suppose we could take that attitude.

Sen. SANBORN: I would like to step a little bit further, Senator, then my just good health. We have a good many so called professions and your remarks of professionals goes beyond that. To think of doctors, lawyers, professional engineers, professional architects, professional this, professional that, we would have a list that long of various ones that we license around the state. You think that everyone of them is a sacred cow, that we can't even look at whether they want to go out and advertise?

Sen. SAGGIOTES: The problem Senator, is that the public will be looking at the prices advertised and the unsuspecting person will probably go to the one that is advertising the lowest prices.

Sen. SANBORN: Senator, for a good many years now I have listened to advertisements on radio relative to Commu-

nity Opticians in Massachusetts that allow them to advertise. Have you ever heard of anybody that has been physically abused by Community Opticians?

Sen. SAGGIOTES: No I haven't. I suppose some of these arguments might have been brought up at the hearing.

Sen. SANBORN: From the various things that were mentioned here in the bill that Senator Rock mentioned I take it to be as I read through them, more or less conduct that the optometrist have got to meet or otherwise they may lose their license relative to advertising. Doesn't this protect the consumer to a certain extent?

Sen. SAGGIOTES: Yes. To a certain extent.

Sen. BRADLEY: Yes. I arise in opposition to Senator Saggiotes motion and I hope may allay some of his fears about the implications of this bill as I read it. As I read this bill all this is allowing the optometrist to do is to advertise the price of a product, glasses. It does not allow them to advertise prices where either a variable amount of service may be involved, or various amount of material may be involved, it doesn't allow them to go out and tout themselves as being better than anyone else. I think if any of the professions, and I include my own, are in the business of selling products, there is nothing wrong with advertising the price of the product, and if I decide to start selling some of my law books to the general public, I would see nothing wrong in my being able to put a price on the law books. It seems to me that is all this bill is saying. I hope that Senator Rock won't feel that this would be a precedent for taking all the holds off from restrictive advertising in the professions. I would certainly hate to see the day when doctors, lawyers, accountants and so forth would be permitted to make claims for doing a better tonsillectomy than the next doctor, lawyers claiming let me represent you in your divorce, I will take your spouse for more than the next guy down the street. Maybe the supreme court is going to rule that lawyers are entitled to do that. I hope I never see the day, and I hope this Senate would not be a party to such a thing. I do not see this bill establishing such as that. I do not see this bill establishing such as that.

Sen. BLAISDELL: Are you saying that they should leave you alone and hit them? Is that what you are telling me?

Sen. BRADLEY: No, I don't think so. I am saying that if my profession were in the business of selling a product, a fixed kind of mass manufactured produce as I understand these glasses are, then I think I should be able to advertise the

prices. My profession or association should by ethical rule or statute say that I couldn't advertise that. And that's all I see this bill doing. I'm not suggesting we ought to treat the professions any differently.

Sen. BLAISDELL: Do you see that maybe with the advertising costs it will cost the opticians, and maybe they might increase the prices of their glasses and the consumer will pay there too?

Sen. BRADLEY: Well that's always a possibility but I think the history of the free enterprise system indicates that's probably not the case.

Sen. BLAISDELL: Do you think it's going to look good to see some Veteran's Day specials on glasses?

Sen. TROWBRIDGE: I know it's getting a little off the subject but I think it's important to Senator Saggiote's motion, you said that if you had a product, a tangible thing, and the optometrists, as I understand it, takes his hourly rate out by selling the glasses. He doesn't charge an hourly rate for his services. He charges it through the tangible thing. You charge your hourly rate as an hourly rate. If you take that logic, then the lawyers could say I charge \$45 an hour but the guy across the street charges you \$50, now that's where the weakness of your argument is, that your product is an hourly product. You charge for services and therefore I don't see that there is too much difference between your particular situation and the optometrist who does charge his hourly rate through the product.

Sen. BRADLEY: There is a distinction, I think. As I understand, I don't know how optometrists work, but I got it from the debate so far that they do in fact sell a product which is more often than not a pass produced sort of thing and how they decide they want to bill for it, it seems to me to be up to them. If someone wants to put a price on that product it doesn't bother me. I'm not terribly worked up about the concept of lawyers stating to the public what their hourly rates are, that doesn't bother me. Although I don't think I will put an ad in the paper myself. If the supreme court says that we are entitled to do that, that's not going to bother me too much.

Sen. ROCK: I realize I have spoken once before to the motion. I appreciate the Senate's courtesy in speaking again on my bill. First I'd like to refer to Senator Trowbridge's question regarding how the optometrist might charge for services. I think we have to establish a distinction here because there are op-

tometrists who charge for an examination and then they charge for glasses another fee.

The price of the glasses depends on your vanity in many cases or how seriously you want match the color of your frames to the color of your outfit. What concerns me in this issue, Senator Trowbridge and members of the senate, is that once having had my eyes examined for the particular problem that I have, I would like then to have the prescription in my hand before the glasses that I need and be able to do a little comparative shopping and come up with what I feel is the best price. I think we are losing sight of what is included in not only the concept of this legislation, but more specifically in the exact working of it. The Board of Optometry is a board of the peers of the man who is going to be affected and controlled or having control lifted in this one area. The professionalism of the optometrist in my feeling is not going to be lessened in and it's all spelled out that anyone who becomes a charlatan, or a sleazy character, in the business of the eye glass profession in the State of New Hampshire can have his license to practice optometry removed by the very people who came in and said if this bill passes the whole state of New Hampshire is going to go to hell in the bucket as far as eye glasses are concerned. Those who oppose the bill were self serving. Those who benefit from the bill are the general public and the consumer. I have a rather lengthy letter from the Director of the Department of Health of the city of Nashua, Mr. Alphonse Hattenschweiller, Mr. Hattenschweiller says and I quote him "the day has passed when we can maintain the attitude of big brother knows best. As consumers we deserve to be provided with accurate factual data on which to make our decisions in all areas of life. One of the big dangers if we aren't given such an opportunity is eventually government will step in and regulate things in our behalf and this may turn out to be less desirable. I hope that the committee and the legislature will give serious consideration to enact this legislation into the law and thereby putting New Hampshire in the vangard of concern for the consumer." And finally, Mr. President, I would quote from the Federal Trade Commission, Washington, D.C., December 23, 1975 report Commission Proposes Rules on Optolomic Goods and Services and Seek Public Comment. And it was out of that particular comment that this report came and from this report which I certainly won't burden the

Senate with the comments that Senator Healy referred to and that is what we are voting on here today in **SB 2** is something that is of a timely nature and is necessary for the benefit of the consumer and is certainly not going to harm anyone. It is not going to make any optometrist any less qualified, they must go through their period of studies, they must pass the board, they must be recognized by the board and the minute they begin to act in an underhanded or misleading manner they can have their licenses removed to operate in this state. The consumer is protected and the consumer is benefited by **SB 2** and I strongly urge the Senate to vote against the motion now before it.

Sen. MONIER: Mr. President, this is a lonely corner over here and it's getting lonelier I think by the minute particularly from all the advice I get about it. Let me just respond on one or two minor things. I would just like to rise in opposition to the motion. I have several optometrist friends who we play bridge with etc., and they have all been on my back about this bill. And that right away makes me probably for it because I have high optometry bills with my one bad eye and my constant changing fluctuations in my eyesight so that I have three or four sets. Truth of the matter is I can buy the same kind of glasses, and mine are rather expensive because they do have some certain corrections in them probably no more so than anything else, and I can buy them a lot cheaper with the same prescription and I think that's a point I'd like to make. This bill does not interfere with the prescriptions, does not interfere with the competency of the people who are putting the prescriptions together, whether they be the optometrists who measure it or the opticians who grind it, it merely says they may advertise their costs and their factors and their profit by saying what they want to pay for it. It is policed as Senator Rock has said by their own peers. It seems to me that the objections that most of them had to it and most of them have indicated to me the objection is a personal objection and that is that somebody might just find out what it does cost and these are what you pay for. And I think on that basis I would urge the senate to vote this motion down and to pass this bill because it's time

the people in the street do know what they cost and what they should be paying for.

Senator Downing moved the previous question.

Adopted.

Motion failed.

SB 2 Adopted, ordered to a third reading.

SB 5, permitting licensed establishments and holders of on-sale permits to advertise their prices by the drink or beverage and permitting state liquor stores to offer gifts and prizes. Ought to pass with amendment. Senator Brown for the committee.

Sen. BROWN: Mr. President the amendment deletes section two of the bill. The purpose of this is at the request of the sponsor, Senator Rock, because it did not accomplish, so stated by him, his intent. What the bill does with the amendment is allow restaurants to advertise drinks by the glass. If a restaurant advertises in the paper, we will say for an example, his meals, dinner hours and so forth he can also advertise that if you come and have dinner with us between the hours lets say five and seven, six to eight, your prices of drinks will be reduced. It's done in other states and it's done here now only by word of mouth because of the present law. Also this states in the bill that the Liquor Commission will set the guidelines as to how this advertising will be done. They will have control over the advertising. I urge it's passage.

Sen. DOWNING: Senator Brown, it's not clear to me what you mean by advertising by the drink, actually put in the newspaper that a scotch and water is going to cost so much money?

Sen. BROWN: No, what they generally do is say there is a happy hour between five and six and people know what that is, as I said Senator, it will not be on billboards, it's up to Liquor Commission and I'm sure they would allow this.

Sen. DOWNING: So that according to this then, the happy hour could be advertised?

Sen. BROWN: Yes.

Sen. DOWNING: If I read an account of a recent hearing in the House the Liquor Commission appeared in opposition to happy hour advertising and this bill now would allow it.

Sen. BROWN: That is true.

Sen. DOWNING: Did the Liquor Commission take a stand on this bill?

Sen. BROWN: Yes they did Senator. They were in opposition to it.

Sen. BRADLEY: Senator Brown, under existing law isn't it permissible to advertise the cost of the drink on the premise?

Sen. BROWN: On the premise yes, on the menus and so forth.

Sen. BRADLEY: So that the only thing this bill is now accomplishing with the amendment is to allow advertising by the drink in the media, whatever that might be?

Sen. BROWN: Yes.

Sen. BOSSIE: Senator, I was quite surprised just a few months ago to learn if one owns a store and has a sign, say a couple feet from the store advertising what kind of a store it is, that you cannot advertise that you sell beer. Is that correct?

Sen. BROWN: I'm sorry I can't answer you. I don't know.

Sen. SANBORN: Senator, to carry on what Senator Downing requested, I learned that the Liquor Commission was in opposition to this but you must have had quite a bit of favorable comments on this bill?

Sen. BROWN: Yes. I couldn't tell you the number right off hand. The only objection or the reason stated by the Liquor Commission that they were against the bill, in opposition to it, was because they felt if there were three restaurants or lounges on one intersection of a street or something that it would start a price war. And the committee didn't think that was a valid argument.

Sen. SANBORN: To pursue this a step further, I'm trying to find out why the Liquor Commission might be opposed to this. I don't see anything in here that even if there was a price war or anything else, why the Liquor Commission would be losing any funding. They would still have to buy their liquor the same as anybody else just to get the same price.

Sen. BROWN: That was the consensus of the committee Senator. The committee felt that the Liquor Commission would gain on it, would not hurt the Liquor Commission, would help them if anything.

Sen. ROCK: I'd like to state that before the vote on the amendment is taken what was intended by the sponsor in the amendment having to do with gifts and prizes did not come out the way the sponsor intended and it was my request to Senator Brown that this be deleted and be handled by another piece of legislation which is now moving through the Senate. So I'd ask that in this vote we give no consideration to 175:11-a gifts and prizes because that's out of here. Since there had been other comments on the bill itself, I would like to state that the State of New Hampshire at the present time it is certainly general practice for us to read, I don't happen to have a New Hampshire newspaper at my hands right now, but if anyone would have one on any Wednesday or Thursday, you'll see scores of ads for such outstanding products as Amaretto which is on special this weekend, which is distributed by a fine young lady in this state, it's on sale at \$8.00. The Liquor Commission urges manufacturers and distributors to advertise specials and the reason they do that is because the State of New Hampshire sells it for the same, gets the same benefit from it's sale in revenues that it would normally get. We also see billboards on the turnpike advertising the liquor sale at our state liquor stores. I was a little surprised that the Liquor Commission came in in opposition to the bill, however, I think in answer to what may be an anticipated question, it's the responsibility of this legislature in it's wisdom to make the laws and once made and enacted properly then it's up to the boards and commissions to carry them out. I think we have all seen that one of the greatest source of lobbyists in all of the hearings we have month after month comes from the state departments and the state commissions and state boards. So that the fact that the Liquor Commission appeared in opposition did not disturb me greatly and as a matter of fact their arguments were extremely weak as to the opposition to this bill. In some states, Senator Trowbridge reminded me, including Maine, the department heads aren't even allowed to testify. I wouldn't say I would want to go that far but I do say other states have this type of advertising allowed. I would give you an example of what might be included you might see for instance an outstanding restaurant like the Green Ridge Turkey Farm advertise in it's newspaper ads that they were having a buffet Saturday night and come and enjoy the buffet and from six p.m. to seven p.m. all mixed drinks would be \$1.00. That to me is just good business practices and for those

that are concerned about what might go to the ears of the young people on the radio, radio stations are not allowed to carry liquor advertising of any kind. Hard liquor advertising is prohibited, so you are not going to hear it there. It would be mostly in the form of newspaper advertising. The simple bill seems to make sense to me, to be following the lead of other states and here is a Washington's Birthday special on the big sale of Dewar's half gallons at \$13.90. What we are saying is to allow the restaurants and the lounges to have the same prerogative and advertise their drinks by the glass.

Sen. MONIER: Senator, not that you have managed to mention three different restaurants in your district and two different sales and one distributor, may I ask you a simple question, can I get a lower drink now if this is passed at a happy hour or not?

Sen. ROCK: Yes Senator, it's up to the proprietor of the restaurant as to whether he would advertise any drinks by the price. It seems that many of our regulations are antiquated for instance, Senator Foley joined me last year in passing a law that allowed you to enter a lounge without having to go into a vestibule. And the reason you had to go through a vestibule is because in the old blue law you had to be cleansed and I used an example that it would take a vestibule about 40 feet long to cleanse some of the Senators before they would be able to partake. It's very simple we are updating things, we are living in a modern way and I see no problem with this. The answer is yes Senator.

Sen. BRADLEY: I think my motion should come after we have voted on the amendment.

Sen. HEALY: Mr. Chairman, I'd like to refer my question to Senator Rock. How does this affect the paternal organizations?

Sen. ROCK: I think as licensees they might have the same privileges as to whatever way the regulations are developed. As any first class restaurant would have.

Sen. HEALY: Would this not put the fraternal clubs say in my city where there a quite a number of them if they come out with lesser cost drinks than other organizations. Would this put this into a club competitive plan, and perhaps interfere too with the lounges. If I'm advertising scotch for 75¢ and a lounge sells it for \$1.25, It's pretty competitive.

Sen. ROCK: Let me give you an example that I think might answer your questions a little bit, Senator. Most restaurants

and lounges derive a good portion of their profit from the sale of their controlled beverages. Their wines and spirits income are essential for their success. Many of the most outstanding restaurants make little money on their food, but their ability to offer for sale wine and spirit makes the difference. Now, I don't think anybody is going to be foolish enough to chuck that profitable area and open themselves to financial difficulty just to see how cheaply they can sell a particular drink. But I see no reason why you couldn't have a newspaper ad that would say "enjoy your dinner at Giovanni's in Hudson" why couldn't you say in a newspaper ad "when you dine at our restaurant this weekend enjoy a carafe of rose wine for \$2." Now isn't that simple? But you can't do that now. Just as it was brought out that you can't have a sign outside of your store which says beer bigger than a certain size seems to me to be a little antiquated. And I'll give you another perfect example why I think it is a ridiculous regulation. A particular restaurant that I know of spent \$800 to buy a unit and it is a large keg and in the keg they can put three different kinds of wine and the hostess or the waitress can bring the keg over to your table and say "could we pour you a glass of rose wine"? And out of the keg would come a glass of rose wine and they set it down. The Liquor Commission say's you can't do that. Why can't you do that. Well we say that's the regulation you can't pour wine out of a keg at a table. I don't see any reason why you can't advertise drinks priced by the drink.

Amendment to SB 5

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

permitting licensed establishments and holders of on-sale permits to advertise their prices by the drink or beverage.

Amend the bill by striking out section 2 and renumbering section 3 to read as:

2

Amendment adopted.

Senator Bradley moved that SB 5 be indefinitely postponed.

Sen. BRADLEY: Mr. President, I made my motion after the amendment because I was in favor of the amendment. If the bill is going to pass, I hope it will pass with the amendment. Basically, I am against artificially stimulating the consumption of alcohol and I don't think as a State that we ought to take one step in that direction. I am not a teetotaler, I enjoy a drink like anyone else; but there is no denying the fact that alcohol is the greatest drug problem we have in this state. The costs related to it go far beyond the cost from any other drug. The abuse is wide spread. And I just don't think we ought to be doing things to artificially stimulate the consumption of liquor. Now this is not the worse bill I have seen in that area but it is a bill that goes in that direction and therefore I oppose it. The other thing I would say is that I am usually amazed, sitting on the Ways and Means Committee, as to how often the Liquor Commission comes in and takes no position on a bill when it seems to me they ought to be taking a position on the bill. So when they have come in and taken a position against something I'm going to take it seriously. I'm not sure of all rational without knowing it I'll buy it. Finally I'd comment to why do we have this rule in radio; you can't advertise this particular way? Is radio so old fashion and antiquated I would ask? I think there must be a reason for that and I would suggest the same reason is behind the reason I make my motion.

Sen. SAGGIOTES: I'd like to speak in opposition to the pending motion, and support of this consumer bill. I do support it especially as it deals with advertising of glasses.

Sen. BOSSIE: Mr. President, I arise in opposition to the motion by the Senator from Hanover. I think I'd like to know where we originally got these awful laws. I don't think the bill goes far enough. As many of the Senators, including Senator Rock, stated, these antiquisms from the past were the sort of thing that you kept your drinking in the closet. Nowadays if you want a drink, it's your own business and certainly I would not differ with him that it is a serious problem. When the State of New Hampshire can have liquor stores along our major highways and advertising, they even advertise sales in the liquor store, I see nothing wrong with this. I just wish the committee or whatever committee, the Ways and Means Committee would look into these liquor laws and do away with a lot of them because the Commission perhaps by unknown action think we endorse their behavior when in fact we don't. If more of these things come up we could get rid of

them all. I don't think these have any place in our laws and I think people who want to drink should be able to drink and those who don't want to drink should not drink and that's their own business.

Motion Failed.

SB 5 ordered to a third reading.

SB 8, providing for the cy pres of cemetery trust funds. Ought to pass with amendment. Senator Brown for the committee.

Sen. BROWN: Mr. President, the amendment presently in the bill it states one or more cemetery trustees. The amendment says it must be a majority of the trustees. Under the present law if there is money left to maintain a cemetery lot, the interest on that money accumulates to a large degree, cemetery trustees may now go to the superior court and ask to cy pres that money to surrounding lots to the betterment of that lot and other lots around it. This law, if it is passed, states that the cemetery trustees may still go to superior court and ask to cy pres money not just to surrounding lots but anything pertaining to the cemetery itself such as purchasing more land to enlarge the cemetery if needed, trimming trees, bettering of stone walls; they still have to go through the same procedure in order to do this. Just gives them more weight, if the court deems it prudent they can spend this money for other things in the cemetery.

Sen. SANBORN: Senator, as I understand this bill, this is not the income only the interest on the income that may have already incurred over the years?

Sen. BROWN: That is correct senator.

Sen. TROWBRIDGE: Mr. President, I'd just like to remark that in this area of consumerism, here is another consumerism bill because it will effect all of us. Mr. Page who is a wonderful man who comes from Gilmanton testified on this bill and he runs a private cemetery there and he knows more about cemeterys than most of us will ever care to know. He was very much in favor of the bill, beyond my wildest dreams, and he did say a startling statistic; that in 1776 and before there are more people on top of the ground in the United States now than that have been buried in our history so that cemeteries to

him are no laughing matter. That the expansion of cemeteries is going to have to be something that goes on. The Peterborough cemetery has \$68,000 accumulated above and beyond projected costs of running that cemetery and maintaining the lots, and it grows every year. What they are saying here is the court still has the discretion: the court still has to get a projection of the cost of running the cemetery for the next 25 years or so, so there will be no way that you will find that they spent the money and can't keep up the lots on a current basis. With those projections then, out of the \$68,000 that they have in Peterborough they could come in to petition to say \$40,000 to buy some extra land, expand the cemetery with that money as being as near to the donors real intent when he gave the money in the first place as they could find through the use of money. So I think it is right in line and if we didn't go through the court it would probably be unconstitutional. It's really fairly well drafted.

Amendment to SB 8

Amend RSA 31:22-a as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

31:22-a Cy Pres, Cemetery Trust Funds. Upon petition of a majority of the board of trustees and upon a finding that it is in the public interest, the superior court may direct the application of only accumulated excess trust income for the general care, capital improvements to or expansion of the cemetery relative to which the particular trust applies. The court shall determine from the terms of the particular trust whether the excess income accumulation of the particular burial lot trust fund will not be required for the care of the burial lot in the foreseeable future. In determining this requirement the court shall consider:

- I. The financial status of the trust account.
- II. A projection of future interest rates.
- III. A projection of future labor costs necessary to maintain the lot.

Amendment adopted. Ordered to a third reading.

SB 48, forbidding entertainers less than 18 years of age from

working in places where liquor or beverage is sold. Ought to pass. Senator Poulsen for the committee.

Senator Poulsen: Mr. President, as they were opposed to some other bills this has the complete blessing of the Liquor Commission. It is only to clear the law on the 18 year old entertainers in drinking establishments. It doesn't change the one we already passed a year or two ago that a family member under 18 could be an entertainer unpaid. This simply sets the law straight which it wasn't in the RSA.

Sen. SANBORN: I just want to insure that that bill of mine two years ago is not affected by this in anyway.

Sen. POULSEN: No it doesn't.

Adopted. Ordered to a third reading.

SB 67, increasing the daily salary of a special justice from \$50 to \$85. Ought to pass with amendment. Senator Monier for the committee.

Sen. MONIER: First I'll speak to the whole bill and then apply the amendment as it was if I might. Quite frankly this is a bill to attempt to raise the special justices salary to what has been described by the various witnesses that appeared before the committee to increase a living wage. I think what it really is is to try to upgrade them from what they currently are. The amendment was recommended by Mr. Hayes, from the Judicial Council, in as much as the bill itself, joined by one of our distinguished Senators, would eliminate municipal judges who currently are paid at the rate I believe of \$10 a day or something of this nature. So that the amendment is merely to include municipal judges who are currently still in our city, which we all know are phasing out as we come to district courts, to the same level so that we are dealing with a level of \$85. There was some consensus from the committee that this actually should be higher than \$85. I didn't share that consensus but would have gone along with it. But this was left at this point of \$85. At the current time, and this is the one thing I may need a little help on, I'm not certain how they are paid and what the rate is. It is not equal to this. One question raised in front of the committee was would this increase the cost to the towns? The answer to that was no, because of the fact that they only sit in when the district court judge is not available.

So that the bill itself is to bring up to date or at least to start with a different funding amount for special justices who sit in when the regular district court judge can not otherwise be there. The amendment is to include municipal judges at the same level.

Amendment to SB 67

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

increasing the daily salary of a special justice of the district and municipal court.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Municipal Courts, Special Justices Salary Increased. Amend RSA 502:8 as amended by striking out said section and inserting in place thereof the following:

502:8 Compensation of Special Justices. The special justice and justice of the peace requested to set owing to the disqualification of the justice and special justice shall be paid from the treasury of the town wherein the court is located, \$85 a day for each day or part thereof while sitting in that capacity.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to a third reading.

SB 69, relative to the members of the budget committee established under the municipal budget law. Inexpedient to legislate. Senator Monier for the committee.

Sen. MONIER: The committee had several people appear before it on this particular bill and I think it was a unanimous feeling of the committee that it should be inexpedient to legislate. What the bill does is that it removed from the voting procedures or the capability of voting the selectmen and other that were on the budget committee by reason of appointment. There were several arguments for this and arguments against.

The arguments against it ran pretty well like this. What they really wanted to do is remove these people from two bites of the apple or two chances at having some vote of something to say about it. But further evidence showed that in many towns I think Enfield was one of them, the selectmen handle the budget before it gets to the budget committee. So that was one argument for it. The second was that by the same token the school board wanted to be separated from this and there was some argument on this so that the basic feeling of the committee was at the present time and this is an internal matter for towns and cities and it is not something that we should legislate because at the present time these people are a part of the budget committee, they do have a vote and it was felt they should be left and have that vote. As a result it was inexpedient to legislate by the committee.

Sen. BRADLEY: Senator this is one of those bills that I sometimes worry about that killing it may certain implications as passing it. The bill says to clarify which implies to me that there is some doubt on the subject, yet in your remarks there is no doubt.

Sen. MONIER: We found no doubt. Maybe that answers your question. Evidently, this is something I did not know and I don't want to swear to, but evidently what was presented as evidence was that in truth some towns do not follow the procedure whereby, for example the selectmen, receives the town budgets, goes over them with the town people who are responsible for those statistics and then presents it to the budget committee. The argument of the bill was that once he does that, he's now voting again up here and therefore they wanted to stop that but it came before the committee that there are towns that do not do it this way. Now whether that is what was meant by the clarification or not, I do not know, but it was brought out by the N.H. Municipal Association that where towns do not do this, by removing them as the bill requests, we would then have the selectmen having no vote on it.

Sen. BRADLEY: For what it's worth it's the understanding of your committee that in killing this bill that these appointed members will then have a vote on the budget committee?

Sen. MONIER: That is correct.

Adopted.

SB 65, relative to requiring certain information to be included in correspondence from state agencies. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this bill arose out of the frustrations of it's sponsor and many others in relationship to receiving direct communications from state department agencies which might have been quite broad and didn't give any source of whence they came, any particular sender, telephone number, and so forth. There was no testimony in opposition to this. Walter Mead did appear from the Department of Public Works and Highways to speak to the bill, with concern of various types of stationery required and so forth but the committee thought that it did have a lot of merit; that even ourselves making calls to the State House main number and waiting to be referred to a department, who in turn refers you to another division within that department trying to find the proper person, so that we did recommend ought to pass from the committee.

Sen. SMITH: Senator, I am in total agreement with the bill the only question which I have is the effective date being 60 days. Is this going to mean or did you have any testimony to the fact that it might mean that a lot of stationery is going to have to be junked and it will be highly costly to convert over and I wonder if an effective date a little longer than 60 days might be beneficial.

Sen. PRESTON: The purpose really wasn't to create more work. It was just that the person who signed the document could at least put at the bottom of the letter a telephone number, that's all we are looking for. Shouldn't be any expense to the departments at all.

Sen. BOSSIE: I would like to address what Senator Smith has just said. I think you have to do in state government as you would in your law office, Senator. Basically, what you do is that if you change your office, in your private business what you do is that you don't throw away your stationery, you just type into it. Why waste your money? Believe me this bill is nothing to waste the State's money it's just to provide that our State government is responsive to the people. I think my biggest concern, and in the past I have dealt with a number of state agencies in which they are very anonymous such as the Department of Highway Safety. These are all nice people and they mean well. This Department of Public Works has 23 sets

of stationery within their department and they are trying to do away with it and that's why they showed up at this hearing. I don't care what their stationery looks like, all I want to know is whoever is sending me the letter, I would just like to know his phone number. It's very easy. We as legislators, you see what our stationery looks like, State House, Concord, N.H., well on every single piece of stationery and I send it from my office and costs me the \$.13, I of course type my name on it and my own telephone number on it and I put my office or my home address on it so they will know where to get me if I am not here. What this would do is just provide whoever is sending it, like the Attorney General's office, I had a call from the AG's office and it was after five. I looked it up in the phone book. There is no Attorney General's office in the telephone book. And so that means you have to call the switchboard down stairs. It was after five they were closed. I had to wait and the person was waiting for my telephone call and I didn't know his number and no way find it so I called information. That is really unnecessary. The reason why it is necessary in a bill is that we have three different parts of government, the legislative, executive and judiciary and we want them all to do it. We want ourselves to do it. We want people to get to us and I'm sure our state employees might not wish as much as we do that the people get through. But at any rate, it's a good thing and it's not a very complicated bill but I think it would be doing us a lot of good if we would pass it.

Sen. BRADLEY: Senator Bossie, I think this sounds like a good bill. Just one question where it says all offices of the State, are Senators included as offices?

Sen. BOSSIE: Well, we would be one or the other, either an employee or an officer. I think the legislature should do it anyway. In certainly any office that represents us like if we get a letter from the Senate Clerks office I would expect they would have this information anyway. And, especially when it's a toll free number we should encourage them to put these on their stationeries.

Adopted. Ordered to a third reading.

SR 1, memorializing the New Hampshire Congressional delegation regarding the Environmental Protection Agency. Ought to pass. Senator Rock for the committee.

Sen. ROCK: The committee unanimously endorsed the concept of Senate Resolution 1. The resolution stemmed from several articles that the sponsor had read and studied and what it does is that it memorializes the congressional delegation urging them to study closely the regulations of the EPA and consider sponsoring practical amendments to insure a more democratic agency so that these amendments would reduce the EPA's expanding power which to date has hindered the prosperity and progress of the nation. The Environmental Protection Agency seems to be an ever growing, ever increasing and ever more worrisome bureaucratic agency that may indeed be causing more harm than good in our states and in the nation.

Sen. HANCOCK: Mr. President, members of the Senate, I have no difficulty with the congressional delegation studying the regulations of the Environmental Protection Agency or any of the other agencies. I have dealt with the EPA and its regulations in various capacities as I have been in various state positions. In many cases it has been unrewarding and frustrating and certainly a difficult process. However, I certainly agree that the EPA's powers are seemingly unlimited as the resolution states. The agency was established by the congress and its powers were circumscribed by that act. I agree it is a powerful agency and it certainly should be a powerful agency as it is necessary to carry out its environmental mission. It has taken actions I know with which many people in the state of New Hampshire do not agree, principally Seabrook, but there are other people who do agree with those actions. I think that this resolution makes assumptions with which I cannot agree and which I certainly do not endorse.

Sen. HEALY: Mr. Chairman, I would pose some opinions some reports that I have read about the EPA. One of them comes from our own executive director of the N.H. Water Supply and Pollution Board a gentlemen by the name of William A. Healy, no relation, but in my thinking he is quite a guy. He says in reference to EPA projects, these projects have been holding up and doing nothing causing more taxes to the state of New Hampshire. He was making reference to some particular projects that were being conducted in New Hamp-

shire. In one comment he said he cited a delay in the water pollution problem that is costing taxpayers several million dollars in this program. He said that the fifty million dollar Winnepesaukee River basin was started in late 1975 and he said "our money comes from the federal government we waited six months for the EPA to complete an environmental impact report so that really slows down that project quite a bit and very costly. And also in another summation report from Automotive Age a pretty good report that says that the 1978 amount of production is in jeopardy and will remain that way for some months. Possibly late in the fall. The reason for this unprecedented state of affairs is the 1970 Clean Air Act and also the auto pollution control standards mandated by it for 1978 models. The manufacturers say they can't meet the standards and are asking congress for an extension of the 1977 standards. They say if they don't get it, they can't build any 1978 cars. He goes on to say that congressional critics of the industry are in no mood to grant the industry any quick relief. On the contrary, they give every evidence of trying to stall any relief programs. In other words I prepared this resolution particularly in the interest of our economy. As far as I can see and as far as many people in the state of New Hampshire have come out with a petition in reference she mentioned Seabrook, there were thousands of petitions signed by the working people throughout the state all advocating that the EPA yield and let the project get under way. Now there is talk about change in the project, which if they do change it they'll start construction. There are quite a few laboring people unemployed due to the fact of hold up on account of anti-pollution reports. In some cases even recently. last Sunday, I read a story in reference to Massachusetts where a builder, construction man in Massachusetts, decided that he was going to move into New Hampshire to continue his business after spending a tremendous amount of money in Massachusetts and simply, it was because some of the rules and regulations of the state one especially the EPA was going to take some time for them to find out the cost of what the birds will do flying over a particular area and it's going to be a heavy expense and long time survey which was going to slow down this project. So he decided to give up in Massachusetts and come to New Hampshire to do some construction work. To me these are the things that effect me as I think nature takes care of nature re-

gardless of whether we have the EPA or not.

Sen. SANBORN: Mr. President, I'd like to arise in favor of Senate Resolution 1. I have listened to the arguments so far on this. Only thing I feel is that perhaps this resolution doesn't go quite far enough because many of our states have taken on the environmental protection and established statutes that are even more strict than those of the federal government. I say this because it was my pleasure to serve this last summer on Senator Downing's Electrical Energy Committee and one of the things that was brought up before that committee, for instance the state of Rhode Island is entirely all electrically generated. Comes from foreign oil. Relays entirely on foreign oil and the question was asked why don't they have a couple of oil burners? They can't have any coal burners in the state of Rhode Island because their environmental protection is so much more strict than the federal government. We are able to get by with Bow in the state of New Hampshire as a coal burner. But if environmental protection gets any stiffer, we may even lose that. We must remember that coal right now is basically the most plentiful fuel that there is in the entire country. There is enough they tell me to last over 500 years. Even longer than atomic energy. But because the environmental protection requirement we will fast be running out of the coal that we can use to meet their requirement. Therefore I am strongly in support of Senator Healy's resolution.

Sen. TROWBRIDGE: I have no real objection to the resolution as far as it goes because I don't think it is going to alter things much but I would like to point out a couple of things that I think we missed all the time on the environmental scene. The biggest public works project in the world dwarfing the highway system is the water pollution system. It has provided more jobs in New Hampshire than Seabrook could ever possibly provide, and I think as we calculate the value of something like the EPA got to recognize that all of those impetus' came from us to clean up the Pemigewasset and we voted those things in, and we are funding them in our state budget, and part of the red tape we have is simply because of the fact that you've got three people, three jurisdictions working. State, federal, and local all have to be combined if you did it only state, only federal or couldn't do it local, or if you could do it all one jurisdictional pattern it would have been a much quicker process and I would like to see someone say to

the EPA that let's concentrate on those things which are recognized or valued throughout all the states and to maybe push for coal burning, push for some alternatives that we can have instead of just having it nuclear or not. Cooling towers or not and I noticed now that the Public Service Company may very well be changing it's plans because of this and recognizing that the environmental movement has been a great growth industry for the United States.

Sen. MONIER: I want to arise in support of the resolution. I'd like to respond to a couple of comments made by Senator Trowbridge, Senator Hancock and the others. Quite frankly I don't think it goes far enough either and it's got nothing to do with Seabrook and I'm not going to talk about it. What troubles me about the EPA, is very frankly I don't think it's just the EPA, I can talk about the IRS and a few others if you'd like. But it's simply once congress establishes them it establishes them in terms of the concept in the policy that congress puts forth. They then will procede to establish the rules and regulations which they operate, not congress. And last but not least is that in many cases these agencies, which EPA is a major offender, does not establish standards which can last and if they don't have any, they arbitrarily impose them, or they write them to such a detail for example they tell what kind of lock and what kind of grease to use on it or else you are in violation. This kind of bureaucrat organization of our lives on a daily basis is what I object to. I don't object to the concepts or the policy of environmental protection, I don't object to occupational safety, I don't object to it in income tax; but in these types of agencies and contrary to the smiles that I see when I say that it is not going to have much affect, I would remind the Senate that originally this kind of a body at the local and legislative level of the states are the one that congress are supposed to listen to. They are supposed to listen to us in terms we represent a local citizenery which is not available to them or is not as close to them. If they do not pay any attention to these, then we ought to start protesting that. I think we speak for the people a lot better than a particular congressman regardless of who he is, who has a much larger constituency. It's the only way you do have your feet in to the federal system. I remind you that our federal constitution we gave them whatever powers they have. Part of it is expressed in our opinion. I like these resolutions and think they should

be stronger. I think they should indicate that the federal government should pass a policy, they should set the laws and the bureaucrats should keep out of it because they constantly change the regulations and will take HB50 which we all voted for. You are right Senator Trowbridge it did increase jobs and it built environment. Matter of fact there are phones right in my district in which they have been built on these things. That's not the point. The point is that procrastination and a bureaucratic lack of making decision and following them through has cost us on HB 50 and Winnepesaukee many millions of dollars which would not have had to been spent. I think that is what it should be chastised for and I hope this resolution would be a start to it.

Adopted. Senator Hancock, Senator Bradley, and Senator Foley voted against the resolution.

ENROLLED BILLS REPORTS

HB 33, repealing the statute relevant to reinstatement of World War II veterans' licenses. Senator Lamontagne for the committee.

SUSPENSION OF RULES

Senator Downing moved that the Rules of the Senate be so far suspended as to allow those bills ordered to a third reading be read a third time and final passage at the present time.

Adopted.

Third Reading and Final Passage

SB 2, permitting optometrists to advertise prices for glasses and contact lenses.

SB 5, permitting licensed establishments and holders of on-sale permits to advertise their prices by the drink or beverage.

SB 8, providing for the cy pres of cemetery trust funds.

SB 48, forbidding entertainers less than 18 years of age from working in places where liquor or beverage is sold.

SB 67, increasing the daily salary of a special justice of the district and municipal court.

SB 65, relative to requiring certain information to be included in correspondence from state agencies.

Adopted.

Sen. Preston spoke under rule 44.

SEN. PRESTON

Today I have forwarded a letter to Governor Thomson expressing dismay regarding his two appointments to the N.E. Regional Fishery Management Council.

The recent establishment of a 200 mile limit has necessitated the formation of fishery management councils representing all coastal areas of the U.S. The New England Council has two New Hampshire representatives, one of whom should be the "principal state official with marine fishery management responsibility and expertise in each constituent state." In New Hampshire Richard Seamans serves in this capacity, is a professional in his field, but was overlooked for political reasons, and at the expense of those who make their living from the sea—New Hampshire commercial fishermen.

The other appointee was to be "a qualified individual who is knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the geographical area concerned."

My remarks are not intended in any way to reflect on the character or dedication the Governor's appointees to the Council, Messrs. Lee Wulff and Richard Wadleigh, but rather to point out that they bring minimal qualifications, if that, to their assigned posts.

Though political patronage is a recognized part of our system, such sensitive positions, requiring expertise and technological know-how, should be filled by qualified people whose decisions will have such decided effects on those who make their living from the sea.

At a recent meeting in Gloucester, the largest representative group present were N.H. fishermen, a state representative, Ashton Norton of Hampton, Senator Foley and myself. We found out at that meeting that this is not just a politically motivated group, but the Council will be taking some very affirmative action on fish management, limits for the taking of certain species of fish, mesh size, etc. It was evident to those of us present that this should not be an assignment for Council members to learn about the problem, but a place for one who knows the problem and can actively and intelligently represent N.H. fishermen in doing something about it. The Council is holding meetings in Maine, Massachusetts, Rhode Island, etc. but none in the State of New Hampshire.

With all due recognition that our Governor has the right to make such appointments, I respectfully request that he reconsider and re-appoint more qualified representatives to the N.E. Regional Fishery Management Council—as outlined by the Secretary of Commerce—in establishing the councils.

Recess.

Out of Recess.

(Senate Vice President, Ward B. Brown in the chair)

INTRODUCTION OF SENATE CONCURRENT RESOLUTIONS

Senate Concurrent Resolution No. 2

To petition the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States which guarantees that a student has the right to attend the public school nearest his home. (Monier Dist. 9, McLaughlin Dist. 13, Provost Dist. 18, Rock Dist. 12, Sanborn Dist. 17—To Rules.)

Senate Concurrent Resolution No. 3

establishing a special committee to study tax reform at all levels of government. (Blaisdell Dist. 10, Bradley Dist. 5,

Rep. Wiggin Cheshire 14, Rep. Townsend Sullivan 1, To Rules.)

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Monier moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills numbered 104, 143, 136, 133, 152, 130, 108, 31, 43, 138, 210, 55, 157, 115, 172, 25, and 214 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 43, relative to the service tax exemptions for real estate taxes. To Ways and Means.

HB 138, defining bodies of water 10 acres or more for the purpose of trapping. To Environment.

HB 210, making it illegal to take trout less than 6 inches in length. To Recreation.

HB 55, providing that the preparation and publication of a list of certain real estate tax assessments shall be determined by the legislative body of any town. To Ways and Means.

HB 157, relative to determining the compensation to be allowed the collector of taxes. To Executive Departments.

HB 115, stipulating that any local tax payment made by a check returned by the bank for any reason is deemed a non-payment of the tax bill. To Executive Departments.

HB 172, permitting tax collectors to use automatic or electronic data processing equipment in certain cases. To Executive Departments.

HB 25, relative to the maximum amounts of group life insurance for employees. To Insurance.

HB 214, providing a penalty for the false reporting of a motor vehicle accident. To Judiciary.

HB 104, providing for the disposal of certain fish, game, fur-bearing animals and marine species. To Environment.

HB 143, requiring a permit and fee for a commercial fishing tournament or contest. To Recreation

HB 136, providing for a 3-day nonresident small game hunting license. To Recreation.

HB 133, prohibiting self-sustaining departments of municipal government from exceeding appropriations voted for their departments without complying with the provisions of RSA 32:10-a. To Executive Departments.

HB 152, relative to annual property inventory forms. To Executive Departments.

HB 130, relative to railroad warning signs on the state highway system. To Transportation.

HB 108, permitting the liquor commission to issue a special license to certain bowling centers to serve liquor and beverages. To Ways and Means.

HB 31, repealing restrictions on certain expenditures relative to Pease Air Force base. To Finance.

INTRODUCTION OF SENATE BILLS

Senator Monier moved the following resolution:

Resolved, that in accordance with the list in the possession of the clerk, Senate Bills number 88 through 91 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 88, relative to workmen's compensation coverage for domestic and casual employees. (Monier of Dist. 9; McLaughlin of Dist. 13; Brown of Dist. 19; Jacobson of Dist. 7; Rock of Dist. 12—To Insurance)

SB 89, relative to the presidential preference primary and the choosing of delegates for the national conventions. (Sanborn of Dist. 17; Rep. Riley of Hillsborough Dist. 26—To Executive Departments, Municipal and County Government)

SB 90, relative to licensing electricians. (Sanborn of Dist. 17—To Administrative Affairs)

SB 91, relative to confidentiality of legislative budget assistant working papers and access to records and documents to perform post-audit functions. (Monier of Dist. 9; Sanborn of Dist. 17—To Rules and Resolutions)

HOUSE MESSAGE
HOUSE CONCURS IN SENATE AMENDMENT

HB 92, legalizing a special town meeting in Pittsfield and proceedings of a special town meeting of Newington.

Senator Hancock moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday at 3:00 p.m.

Adopted.

Late Session

Senator Jacobson moved to adjourn until Tuesday, March 1 at 3:00 p.m.

Adopted.

Tuesday, March 1

The Senate met at 3:00 p.m.

Sen. Smith in the chair.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

After a short recess, it is good to be able to meet together again with prayer without which we are as nothing worth.

May we be charitable, Lord, one with another as well as with those with whom we come in daily contact which shall help us to have a brighter outlook and a keener insight into the needs of others.

Let thy holy spirit always direct and guide us, we humbly beseech thee!

Amen

Senator Bergeron led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 92-95 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 92, relative to the payment of a resident tax in order to obtain an operator's license or motor vehicle registration. (Jacobson of Dist. 7—To Ways and Means)

SB 93, clarifying the legislative intent of RSA 149-G:2 concerning the extent to which the state shall assume contractual obligations for the design of municipal sewage disposal systems. (Hancock of Dist. 15—To Environment)

SB 94, relative to chiropractic qualifications for examinations and licenses. (Saggiotes of Dist. 8—To Education)

SB 95, relative to the taking of yellow perch and white perch for commercial sale. (Blaisdell of Dist. 10—To Recreation and Development)

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 126, 204, 192, 241, 170, 19, 100, 158, 98, 105, 236, 252, and 57 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 126, relating to certain acts prohibited by insurance company officers and directors. To Insurance.

HB 204, repealing RSA 312 relating to auctions of personal property. To Administrative Affairs.

HB 192, relative to the taking of deer in the town of Auburn. To Recreation.

HB 241, repealing the requirement to print hydrophobia symptoms on dog licenses. To Public Institutions.

HB 170, relative to property tax exemptions for certain disabled servicemen. To Ways and Means.

HB 19, to reduce the mandatory period for impoundment of dogs and other animals and to increase pound fees. To Executive Departments.

HB 100, relative to placing the Exeter police department under the control of the town manager. To Executive Departments.

HB 158, relative to the compensation of tax collectors. To Executive Departments.

HB 98, relative to an agency's readoption of edited rules and relative to notice requirements in the rule adoption procedure. To Administrative Affairs.

HB 105, relative to the revocation and suspension of hunting and fishing licenses pending appeal of conviction of fish and game regulation violation and the statutes relative to littering. To Recreation.

HB 236, relative to the student trustee in the state university system. To Education.

HB 252, guaranteeing freedom of speech, right of criticism and disclosure for all state employees. To Judiciary.

HB 57, relative to security deposits of tenants of residential premises. To Judiciary.

ENROLLED BILLS REPORT

HB 92, legalizing a special town meeting in Pittsfield and proceedings of a special town meeting of Newington. Sen. Lamontagne for the committee.

FURTHER HOUSE MESSAGE HOUSE CONCURRENT RESOLUTION

HCR 3, inviting Chief Justice Kenison to address a joint convention on the state of the judiciary.

Senator Trowbridge moved that the rules of the Senate be so far suspended as to allow House Concurrent Resolution no. 3 be placed on second reading at the present time.

Adopted.

Senator Trowbridge moved to adopt HCR 3.

Adopted.

COMMITTEE REPORTS

HB 47, establishing a fourth New Hampshire song and providing for the designation of an official New Hampshire song. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this bill establishes Autumn In New Hampshire by Leo Austin as the fourth state song. The committee had the privilege of listening to this record being played and I understand the President has granted the privilege to Representative Benton to play this record and I think that in itself will determine the committees report of ought to pass.

Sen. JACOBSON: Senator, my question is with respect to the amendment. I understand that the Senate President has one appointment, and that appointment must be someone of musical talent. Does it provide for any testing of the members of the Senate so I can choose the best one?

Sen. PRESTON: No It does not. It was suggested by Rep. Benton that whatever it was in your discretion and the awesome power of the Senate in making such determination that you would be able to do a good job in your appointment.

Sen. ROCK: Senator, the committee that is going to consider the new song would they be willing to consider such songs as Pennys From Heaven? A Million Dollar Baby? or Hey Big Spender?

Sen. PRESTON: I refuse to yield to that.

Sen. BOSSIE: Mr. President, I arise certainly in favor of the amendment and of the bill in general. I think it would be a good idea to finally select a State song. I would like to point out to the Senate and for Mrs. Hetchquin that I take music lessons every Saturday morning, piano lessons and one of the songs is by the person who published this song. His name is Paul Borderleau he is my music teacher and one of the songs he trains his students by is this one.

Senator Preston offered the following amendment.

Sen PRESTON: I am offering an amendment to this bill as would be the better State song so that in future years we might lish a committee of five to make such a determination which would be the better state song so that in future years we might add on more songs.

Amendment to HB 47

Amend the bill by striking out sections 2 and 3 and inserting in place thereof the following:

2 Official State Song. In order that we may have only one official state song, there is hereby established a committee of 5 who shall serve without pay to select the official state song. The committee shall choose from among those songs designated as state songs prior to or as of the effective date of this act and any other song brought to its attention by its own members or by anyone else. This committee shall consist of one member from the house of representatives appointed by the speaker of the house, one member from the senate appointed by the president of the senate, and 3 members of the public appointed by the governor and council who are knowledgeable in the music field. The committee shall serve only so long as is necessary to designate the official state song, but in no case beyond December 31, 1977.

3 Other Songs. All songs designated as state songs prior to or as of the effective date of this act and not chosen as the official state song shall be known as honorary state songs but shall not be construed to be the official state song.

Amendment adopted. Ordered to a third reading.

HB 54, relative to the administrative procedures act. Ought to pass. Senator Brown for the committee.

Sen. BROWN: **SB 54** attempts to standardize the Administrative Procedures Act which the committee felt it does do just that. By statute, Legislative Services has to publish rules and regulations that are promulgated by state agencies. It has come to the attention that many agencies are not filing these rules and regulations with Legislative Services. It is believed that the reason they are not is because of misinterpretation of the last sentence in RSA 541:a-2 paragraph two which reads the provisions are not applicable in favor of any person or party who is actual knowledge thereof and they interpret that to me as long as they notify the persons and parties involved that they do not have to file regulations with Legislative Services. So that wording is being changed in this bill to read no agency rule is valid or effective against any person or party nor may be involved invoked by the agency until it has been filed as herein required by the administrative procedures act.

Sen. BOSSIE: Mr. President, I rise in favor of the bill as passed by the committee and thank Senator Brown for his enlightened discussion. Basically the purpose of my speaking is to provide background for the record as to legislative intent in case of any appeal as a result of this, and so what I have to say is basically that it is the intent of the Senate that every agency of the state must comply with the terms of the Administrative Procedures Act and that the supreme court in interpreting this should not interpret it as meaning that it is advisory in nature but rather we emphatically deem it to be mandatory in nature. We intend that every agency of the state shall comply with this in every aspect. It is not enough that they, for some technical reason or error, failed to comply with each and every aspect of the act, for it is our intent that this will not relieve them from the necessities as required by this bill.

Adopted. Ordered to third reading.

SB 58 relative to the rule-making powers of the weights and measures division of the department of agriculture. Ought to pass. Senator Brown for the committee.

Sen. BROWN: **SB 58**, in its entirety reads exactly the same as the present law for an exception on page 3 of the bill paragraph D. It substitutes national conference on weights and

measures in place of the national bureau of standards because it is no longer the national bureau of standards that promulgates the rules and regulations that the department of weights and measures it's the national conference of weights and measures. In actuality it substitutes the national conference on weights and measures for national bureau of standards and also the last sentence and need not be adopted in accordance with RSA 541-A. Now it may sound some what contradictory to the bill that we just passed because 541-A is the administrative procedures act; but a few years back the legislature voted that the Department of Agriculture, the weights and measures division, only would not have to with because the national bureau of standards promulgated the rules and it would be accepted automatically by this state. Therefore, they publish their own rules and regulations which is a copy thereof, and felt they didn't have to comply with the administrative procedures act.

Sen. BOSSIE: With the exception of the regulations published by the national conference on weights and measures, is it intended by this Senate in passing this that the department would have to follow the administrative procedures act in every other aspect other than this?

Sen. BROWN: Yes Senator. That is true. It only pertains to the weights and measures division.

Adopted. Ordered to a third reading.

SB 41, relative to the deposit of state funds in approved banks. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill takes care of a problem that arose to a treasurer in one of the audits, he had more money deposited in a bank than the formular allowed over one weekend. It was caused by his deposits which were made as money came in from the federal government on unemployment. This was a check for two hundred and twenty or thirty thousand dollars it was deposited on Friday night and paychecks of unemployment had gone out and hadn't cleared so that at that particular moment there was more State money in the bank than the formular allowed. Under this bill the formular is changed a little bit. The timing is changed a little bit according to his record rather than according to the banks record and it gives just a little bit more leeway to the situation.

It wasn't opposed, in fact it was endorsed by both the savings bank association and the national bank association.

Adopted. Ordered to a third reading.

SB 66, relative to collateral for small loans. Inexpedient to legislate. Senator Preston for the committee.

Senator Preston moved to recommit to the committee on Banks.

Adopted.

SB 24, relative to the statutory definition of "farm, agriculture, farming." Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: Primarily, this bill eliminates from a long list of nouns as to what is farming, the words removal of sand, gravel, clay, soil, or earth. These are more properly considered mining rather than farming.

Sen. TROWBRIDGE: Senator Keeney, I think the real reason I am standing is that what statute or what context is this whole, what does it deal with, is it removing it from the current use law?

Sen. KEENEY: It's removing it from a statute defining what is farming. But your question is a good one because it would have application perhaps under the current use law. It would mean that removing gravel, sand, clay, etc., is not farming.

Sen. TROWBRIDGE: Removing from the definition of farm from 21:34-A do you know what 21:34-A is defining? I know it is defining farm, but for what purpose?

Sen. POULSEN: The original definition of farming in RSA is too simply descriptive and I don't think it has any effect on the registration of agriculture and farm plates which was my first thought. I think it was stated on the books as an archaic beginning. It was only done preparatorily, but never used. My first thought this was the basis of registration of vehicles under agriculture and under farms, but it's not. There is no bearing whatever, and the worry is that including it as part of farming could be misconstrued as interpretations of current use leading to legal hassels.

Sen. TROWBRIDGE: I'd like to ask Senator Bradley.

Sen. BRADLEY: I can perhaps shed a little light on this although I am not sure of what all the problems are. The chapter of the RSA that is being amended here is a rather introductory chapter to the RSA which is the chapter on legal definitions and statutory construction so that it defines what a person is and a person includes a corporation. It defines what registered mail is. It defines all kinds of things like that so that whenever you use the word "farm, agriculture, or farming" in the other statutes, you pick up that definition so that you won't have to repeat it. Now Lord knows how many places in the RSA the word "farm, agriculture or farming" is referred to. I have no idea and I don't know what problems cropped up.

Adopted. Ordered to third reading.

SB 21, requiring the impoundment and forfeiture of a "propelled vehicle" used in the commission of certain crimes. Ought to pass with amendment. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, this is the Sanborn burglary bill and the amendment may be found on page 6 of today's calendar. What the judiciary committee has done is to make what appeared to be an unconstitutional bill into what may be a feasible bill. What it does is provide that the superior court, in addition to the criminal penalties, may do this so that it may be an added penalty I think it would be a good idea. It leaves it to the discretion of the court and also provides that frankly you can't take somebody's car until they are convicted. It also provides that any liens on it have to be paid first after the sale. In doing a bill of this nature, especially in view of the intent of the author of the bill. I think these things have to be done even though they might appear to be obstacles in the way. I think that the way the bill is amended, it is acceptable to the committee and I would suspect, to the Senate, in view of the fact it accomplishes what the sponsor wants.

Sen. ROCK: Senator, on studying your amendment I pose a hypothetical case to you if I may. Suspect A is arrested at the scene of a crime and brought to trial and found guilty and his vehicle was impounded at the time of the arrest and now because he has been found guilty the court may at it's discre-

tion sell the car at public sale and bank X has a lien of \$1,000 on the car and they sell the car at public sale for \$500, where is bank X?

Sen. BOSSIE: Bank X gets \$500 less the cost of the sheriff. So bank X has a 20 day notice, Senator, and Bank X should be at that sale to protect itself. They should bid up to \$1,000 to get it back or enough to protect themselves.

Sen. PROVOST: If one person, let's say Bill, steals my car then he goes and robs a bank and he get's caught, what happens to my car?

Sen. BOSSIE: Nothing. Under this bill the car would not be impounded. It has to be the owner. So a rented car or a borrowed car would not be acceptable.

Sen. ROCK: If a parent owns a car and a member of the family uses the car in the commission of an offense, what is the position then?

Sen. BOSSIE: It would have to be the owner under this bill.

Sen. ROCK: No one else but the registered owner of the car could suffer the loss of the property in the arrest and conviction process?

Sen. BOSSIE: Right. It's not the registered owner, it's the owner of the certificate of title. I don't know now if it's possible to register a car in your name that's owned by you in my name, I suspect that you can. Basically the title has to be in your name.

Sen. ROCK: What is the attitude towards corporate vehicles?

Sen. BOSSIE: Well, the corporation cannot burglarize. I don't know of any statute which says a corporation can in fact burglarize.

Sen. ROCK: If my recollection is correct, Senator, and you might reflect with me, didn't Senator Bradley just say that a corporation is a person?

Sen. BOSSIE: For certain purposes. But not for a crime or burglary. They can be burglarized but I never heard of a corporation that is able to burglarize. It's individuals who would individually be charged.

Sen. JACOBSON: Senator I was a little confused about your answer there on one particular point in which you said that goes to the title holder. Now if it is the title holder who holds the responsibility there is no lien because he is also the lien holder. Could you clarify that for me?

Sen. BOSSIE: Would you yield to that, use an example

involving that situation.

Sen. JACOBSON: The question is who's car is going to be impounded?

Sen. BOSSIE: It's not really a question of impoundment. There is going to be no impoundment under this amendment. If the individual who burglarized and is convicted and the court in addition to his penalty may say "o.k. you are losing your car too, hand it over." That's how it happens.

Sen. JACOBSON: That person then may not be the title holder but may only be the registered holder, is that correct?

Sen. BOSSIE: Yes. That is very possible.

Sen. JACOBSON: Well, isn't it really quite possible because if there is a lien on it he may as in my case, I have a car and I share it with the bank so that if I am the burglar it is that car that is sold. Right?

Sen. BOSSIE: It certainly would be and your bank has to protect their interest or it will be sold out from under them. Your car would be sold if the court wanted it.

Sen. JACOBSON: So it is not necessarily the lien holder who is a burglar and whose car is taken, it's the registered car that is taken and sold if that registered car happens to be the burglars.

Sen. BOSSIE: The lien holder does not hold title. He holds a lien.

Sen. JACOBSON: I don't believe that is correct because the bank holds my title.

Sen. BOSSIE: You hold title to your car, they hold a lien. And it's right on the certificate of title. You're at the top, they are at the bottom as a lien holder. That car cannot be sold unless the liens are released.

Sen. HEALY: Wouldn't you say that if I was arrested as a burglar and my car was impounded and possibly sold as you say, wouldn't you say that is an added penalty to me if my neighbor conducted a burglary and has somebody else's car and that other car is not impounded. I'd like to know if you feel that's fair treatment to a man that is going to pay, he is going to be penalized anyway and why should they take his car too?

Sen. BOSSIE: Well, here is the answer. Under the present statute, the criminal statute it's a class B felony to break into somebody's house. So you can get between 3 1/2 to 7 years in jail; why is it that some people get the maximum and some people get the minimum? That is just as fair. This is up to the

court to decide. If you are a burglar who burglarized Bill Sanborn's house 20 times then you are going to get 7 years. But if you broke into Senator Provost's house for the first time you will probably get 3 1/2 years and probably you shouldn't get your car taken away but if I did it for the 20th time I probably should. This is all fair. It all depends on the circumstances and the judge.

Sen. BERGERON: Senator, you kind of lost me on this certificate of title registration bit. Could you explain to me how it would be possible to have an ownership for an individual on a certificate of title and a different name on the registration certificate.

Sen. BOSSIE: Well, I said I'm not sure. I think I can register your car at least under the old law I could. I could register your car I believe it is possible even though I don't have the certificate of title. Has that been changed? Under the old law it could be done.

Sen. BERGERON: If in fact you could do this it could be relative couldn't it?

Sen. BOSSIE: No, because it would be involving a certificate of title, in New Hampshire you have to have a certificate of title to prove ownership.

Sen. LAMONTAGNE: Senator, did I hear you correctly that you say that anyone can register my car if they don't have a title?

Sen. BOSSIE: Yes. This is what I had been talking to Senator Bergeron about. Under the old system you could. I believe this has changed and that is what the story is now. In the old days you could. I don't think they required you to show your title.

Sen. LAMONTAGNE: Well before you had a title, yes. But now that you have a title isn't it necessary for you to show your title to the city clerk or the town clerk before you register your car?

Sen. BOSSIE: No. I don't think so.

Sen. LAMONTAGNE: Well, definitely for the first time you have to show your certificate of title.

Sen. BOSSIE: I don't know. It's been so long since I owned a new car.

Sen. LAMONTAGNE: Let's go back now that if you already got a title isn't it so that on your registration, that your title number is on your registration and therefore the second time you register you just have to show your registration and

then your title number is on it? But it is necessary to have your title.

Sen. BOSSIE: That's probably true.

Sen. SANBORN: Mr. President, I think that the legal minds here on the judiciary have come up with something I admit it wasn't the full oath I was looking for when I originated this bill but I do think it is a start in the right direction and I want to congratulate again our legal minds for the fine work that they have done and perhaps another time we can put some strength in this and clean some of these characters off the back roads of the towns in the State of New Hampshire.

Sen. FENNELLY: What I am about to say pertains to what Senator Rock said about the taking over impoundment of a car. I'm on judiciary and who it is actually going to hurt if you have say a 18, 19 or 20 year old son and you buy him a car and the title is under his name, but as a dad, you are making the payments to the bank say on a \$3,000 car. Dad is still going to make the payments to the bank plus lose the car if the young man is convicted. That to me is the problem.

Amendment to SB 21

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to the forfeiture of propelled vehicles
used in the commission of certain crimes.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Forfeiture of Vehicle. Amend RSA 651:2 by inserting after paragraph II-a the following new paragraph:

II-b. If a person is convicted of burglary or theft and the court finds that a propelled vehicle as defined in RSA 637:9 owned by the person convicted was used in connection with or during the commission of said crime, the court may, in addition to any other penalty imposed, order the forfeiture of said propelled vehicle to the use of the state in which event the court shall order the sale of said propelled vehicle by the

sheriff of the county in which said crime was committed at public or private sale. The net proceeds from such sale shall, after payment of any prior lien, expense of sale and storage charges be paid to the state treasurer for the general fund of the state. The sheriff shall give at least 20 days notice of said sale to any party having a recorded lien on said propelled vehicle.

2 Effective Date. This act shall take effect 60 days after its passage.

Senator Lamontagne moved to recommit to the committee on judiciary.

Sen. LAMONTAGNE: Personally I feel that there is a lot of confusion. I think if this bill was recommitted back to the committee that it could be worked out. There is such a thing as a problem with the title because under the law the owner must have the title in order to register. At the same time, the owner is not actually the owner until that car is paid for if there is a lien. If there is a lien, then the title goes with the lien and the owner does not get the title until the car is paid for. Therefore if the lien holder has the title of the car, how can you impound that car. It just doesn't seem to make sense to me.

Sen. BRADLEY: I have no strong objections to Senator Lamontagne's motion although I guess I am the principal of the particular language we have here. I rise simply to say I really don't think the matter should be confusing. Perhaps it has become confused. I think this provision is very straight forward and I think the way it would apply is very clear that if a person is convicted of theft or burglary, perhaps the person could include a corporation but that is really beside the point, if that person is the person who is designated as the person holding the title on the title certificate then the judge in addition to any penalties he may impose may order the forfeiture and sale of the vehicle. In which case the proceeds will go to the lien holders as shown on the certificate and if there is anything left over after expenses it goes to the State. The title holder as we've been using it, means owner as used in the statutes no question in my mind that's the way the court would construe it. The title holder or owner is the person designated on the certificate as the owner. The person who holds that certificate may be the bank or may be anybody.

The certificate would show the owner, the lien holder, like the bank. It doesn't really matter, I think you are right about registration, the only way you are going to get it registered is if you are the title holder. You have the certificate of title for the town. This law makes no reference to registration, it's all applied to ownership. I think it's clear if it's the will of the Senate to go back to Judiciary, we will be glad to try to change it. I don't see the purpose of the recommittal.

Sen. LAMONTAGNE: Senator how can a car that has a mortgage on it and the title is in the hand of the lien holder, how can it be his car when there is a mortgage on it?

Sen. BRADLEY: Well, just the same as if you buy a car and you borrow money from the bank and the bank gets a lien on the car, you, Senator Lamontagne, want to sell the car. You may do so, you have to take care of the lien.

Sen. LAMONTAGNE: As long as the lien is paid for, you can sell the car.

Sen. BRADLEY: Right. Now, under this law, this would empower the state to step into your shoes and to an effect do the same thing you would do. That is, sell the car or the same thing would happen if you went into bankruptcy and the bankruptcy court took your car and stepped into your shoes and sell the title to the car.

Sen. LAMONTAGNE: So in other words a lien holder would be the one that is going to be losing because there is not enough in the car that's been impounded that sold for less than the mortgage.

Sen. BRADLEY: The lien holder is technically in the same position. The lien holder as Senator Bossie said should buy in to protect their interest. The lien holder is still going to have the rights against the person who took out the loan and is entitled to the proceeds of the sale of the car. And is entitled to go there and protect their interest. If it happens that the car is worth less than the amount of the mortgage, true, the bank could lose. But the bank could lose in other situations if they make a loan where an auto loan is more than the value of the car.

Sen. LAMONTAGNE: Well, can you see why I would like to see it recommitted to the committee, because I think that there is some work that the committee could be doing to protect the lien holders. Why should the lien holders lose?

Sen. BRADLEY: Well, if I may respond to that, I don't think there is any way short of saying that the State of New Hampshire is going to pay off the banks to take care of that problem. If you want to have a bill which involves a forfeiture then that's up to the Senate. This wasn't my bill. I tried to re-write it in a way which I felt went as far as the law could in accomplishing Senator Sanborn's purposes. And that is what the committee is proposing to the Senate; if the Senate thinks going to foul up some lien holders in the sense you raise then so be it.

Sen. LAMONTAGNE: Senator, isn't it possible that your committee, by amending this bill further, that at the time when the full payment had been made to the lien holders, then the State could take this car. In other words that the State could hold a lien on that car until it is paid for. And this way here the lienholder wouldn't be losing any money would he?

Sen. BRADLEY: Maybe.

Sen. BERGERON: Senator, just out of curiosity, for the moment let's say that you are the court and you have this car on your hands that you are going to sell. Senator Lamontagne holds a lien on it for \$1,000; your selling the car and I come up to you and my bid is high at \$500 so you sell the car to me, I give you the \$500 and you turn around to Senator Lamontagne to pay off the lien. But Senator Lamontagne says, hey pal I have a thousand dollar lien on that car, your not getting the title. Now I have given you the \$500 in good faith and now I cannot register the automobile because I cannot get a title to the car. Is that correct? How am I going to get title to that automobile?

Sen. BRADLEY: No I think clearly the way that the law is written the person who buys in at the sheriffs sale is going to take good title just like anybody that buys in at any sheriffs sale, takes good title. The lien holders at a sheriffs sale have to go and put in their interest to protect them. If the value of that car that it's going to produce at the sale is less than the amount of the line, no question the lien holder loses some money. I don't know of any way to avoid that and still have any kind of a law.

Sen. BERGERON: Is there anything in the bill that would automatically force the court to notify the lien holder so that his interest could be protected?

Sen. BRADLEY: Yes. The last sentence was added as part of the amendment which would give 20 days notice which is

basically the same notice that would be given to lien holders in a mortgage foreclosure situation.

Sen. HEALY: Is not this the attempt to make it more difficult for the burglar to carry out his trade if you want to call it? Having a car and taking a car away from him is going to add to the penalty that the court decides to issue to the man. Is that correct?

Sen. BRADLEY: That's right. I think that is the idea of Senator Sanborn and this would be the obvious purpose of this thing. It's additional penalties you're going to impose on someone who has been convicted of one of these crimes, that used the car in the crime and, particularly, it would seem to me if the judge would say well jail sentence is not too appropriate in this case, maybe a fine would be appropriate, but I am not going to let him have his car back so that he can go out and burglarize some houses out in the country further. Now understand that the judge isn't required under this law to order the forfeiture. It's only to make the judge think it appropriate and I assume he would take into account the nature of the crime perhaps prior record and the family situation the other penalties might be imposing. If he is sending the guy off to prison for four or five years it might not make much sense to deprive the rest of his family of the car by ordering forfeiture but that would be up to the judges discretion.

Sen. HEALY: Don't you consider it a rather useless piece of legislation since the judge can give an appropriate penalty for burglary, why is this necessary? It doesn't seem right to me that some people might lose their car and others may not. If a burglary is committed by a man who loses his car, it doesn't take long for him to steal another one which he won't lose because the car doesn't belong to him in title. So to me it seems like a very useless piece of legislation and perhaps giving the lawyers more work and they are already overburdened with paperwork now and I think really that this bill should be considered to legislate.

Sen. BRADLEY: I don't think there is anything in here that gives lawyers any more work, maybe sheriffs.

Sen. ROCK: I heard that they were going to lower the age of Senators on the other side. Senator, another hypothetical question I guess, because I am leaning towards Senator Lamontagne's recommendation. If I were to consider the act of burglary and I happened to have a very expensive Cadillac or Mercedes and I thought gee I might get caught in the burglary

so I am going to leave my Mercedes home but on the way I'm going to steal a car and commit the burglary. I get caught committing the burglary in a stolen car, what happens to my Mercedes?

Sen. BRADLEY: The Mercedes under this does not get forfeited. The way this reads is the car has to be used during the commission of or in connection with the commission of the crime.

Sen. ROCK: Would you not agree then Senator that it would be foolish for anyone who was considering burglary to use his own car? As long as he is going to burglarize he might as well steal a car at least he is protecting his car at home.

Sen. BRADLEY: Well, the point is well taken except that I'd say that there is another crime being committed there and therefore the penalty he might get from the judge might be that much more severe.

Senator Fennelly requested a roll call.

Seconded by Senator Bossie.

The following Senators voted yes: Lamontagne, Poulsen, Gardner, Bergeron, Rock, McLaughlin, Provost.

The following Senators voted no: Bradley, Jacobson, Blaisdell, Trowbridge, Keeney, Hancock, Healy, Sanborn, Brown, Bossie, Fennelly, Downing, Preston, and Foley.

7 yeas 14 nays

Motion failed.

Amendment adopted.

Senator Lamontagne moved to indefinitely postpone **SB 21**.

Motion failed.

SB 21, ordered to a third reading.

(Senators Lamontagne, Rock, Gardner, Poulsen, Healy, Brown, voted in opposition.)

SB 14, relative to the requiring of public motion picture

theaters to give notice before paid commercials are shown. Inexpedient to legislate. Senator Hancock for the Committee.

Sen. HANCOCK: It was the unanimous decision of the committee following two public hearings that it would be an undue and unnecessary hardship on motion picture owners and operators to require that notice of paid commercials by the theatre carried in all of the theatres advertising. The bill proposes that if the theatre carries advertising at all of the paid nature that it must be noted in all the media advertising, and it was the committees thinking that this would be an undue and unnecessary hardship on the motion picture operators and owners.

Adopted.

HB 13, establishing a hunting season for the taking of foxes and classifying the fox as a fur-bearing animal. Ought to pass. Senator Preston for the Committee.

Sen. PRESTON: Mr. President this classifies the fox as a fur-bearing animal right now open season. At one time foxes were diseased. It establishes a season for the fox, the population has been increasing and this will give better control to the fish and game department. There was no opposition to the bill.

Sen. BRADLEY: Senator, I think I saw the other day that the House has passed a bill which gave the power to the fish and game commission to set the seasons for all fur-bearing animals and I thought the fox was included. How is that bill going to mesh with this bill or collide with it as the case may be?

Sen. PRESTON: That bill did pass the House Senator Bradley. It was heard before our committee this morning. No action was taken on it but it is to include almost all fur-bearing animals with the exception of clean animals such as deer and so forth. I think. Correct me if I am wrong.

Sen. BRADLEY: Well, my concern would be that we not pass bills which are inconsistent. The bill as I understand it is one which I've had some input on, and people favoring it, and it sounds like a good idea to me. This bill seems to be taking the opposite approach of having the legislature establish the season which I take is what this other bill is all about abolishing. I am wondering if it is wise for us to pass this today

without knowing what your committee's going to recommend on the other bill.

Sen. PRESTON: Well if the committee did recommend on the other bill even with amendments it will supercede what occurs here but if the other bill doesn't pass, this in effect would correct what fish and game is attempting to do regarding foxes. It amends all statutes in regards to fur-bearing animals.

Adopted. Ordered to a third reading.

Senator Jacobson moved that CACR 8 be taken from the table.

Adopted.

Senator Jacobson moved the following amendment:

Amendment to CACR 8

Amend paragraph IV of the resolution by striking out the same and inserting in place thereof the following:

IV. Resolved, That the sense of the qualified voters shall be taken by ballot upon the following question submitted to them by the general court:

Are you in favor of amending the Constitution to allow district court districts to include towns and cities located in more than one county?

Sen. JACOBSON: What the amendment does is to place the intent of the proposed constitutional amendment in language that is simple, direct and understandable to everyone we hope. The original language of the question was so complicated that as you read it it seemed like the intent was to create more courts. What this proposed amendment does is to allow the criminal trials to cross county line. It has passed the legislature before; it was in the question form that was complicated previously. It is something that we need to update the court system and the changing of it into more simple language hope-

fully will make it so that it will be an acceptable amendment to 2/3 of the people in this state.

Sen. BOSSIE: Mr. President, I arise in favor of the amendment. I think this question as it is proposed in the amendment on page 7 is excellent. It's simple. If people want it or if they don't want it, that's fine. I think we should take this as a lesson before us for any constitutional amendment that comes before us. We should try to write the questions as simple as it is possible so that people don't get confused. I think that is the reason why the last time this was presented to the voters it was denied by 2/3 majority because of the fact they didn't understand it. This is an advance.

Amendment adopted.

Division vote—20 senators voted yes. No senators voted no.

CACR 8 Ordered to a third reading.

Senator Monier is a co-sponsor of **SB 89**, relative to the presidential preference primary and the choosing of delegates for the national conventions.

Senator Healy spoke under Rule 44.

Sen. HEALY: I realize that our good Senator Trowbridge predicted a bad winter here over this past season. It seems to me that spring is not too far away but in the meantime the highways of New Hampshire are in pretty bad shape in general I would say. Although they are much better than the highways of Massachusetts because I have traveled both. So I think in a way our I-93 and other principal highways have stood up pretty well considering the weather. At no time have I heard, being on the transportation committee, anything from the highway department in reference to repairs, cost of repairs, what the future is going to be and I think it's important at this time because I look forward to expensive highway repairs and I'm wondering if Mr. Trowbridge can inform us about the budget or what may be considered. He predicted in

his almanac a bad year and now I think he is going to predict a bad financial report to repair the highways. I am wondering if Mr. Trowbridge could enlighten us a bit on this.

Sen. TROWBRIDGE: The highway budget for this year is actually in excess of the predictions. Mainly, more income is available than we predicted when we closed up shop in special session so that I would imagine that Commissioner Clements and his crew will have ample monies to make ordinary repairs. Those are built into every budget, Senator Healy. I don't think that's our problem. Our real problem are construction funds. New construction funds that's what the real problem is because that has to be matched with federal funds and all sorts of other things. I think frankly, Senator Healy, having been around a while no news is good news and if there were some big problem in the highway budget, we would know it by now.

Senator Sanborn spoke under Rule 44.

Sen. SANBORN: Mr. President, I have been here now about five years, I've used this rule 44 sparingly. I don't believe I make that good of an appearance. However, in the last week there are certain things that have come to light in the media and so forth that upset me. Now in my five years in the Senate. Mr. President, I've heard much about the purity and virginity of the State of New Hampshire. We are practically unassailable. But now, I should go back a little bit and mention that this year I have entered for the third time a bill relative to compulsory sentences, mandatory sentences for drugs. Those that sell and push drugs. Once, I believe, the bill was killed in the Senate and another time it did get past the Senate and died in the House Judiciary Committee, sometimes known as Martha Frizzell's kindergarten. Now the Judiciary has my third attempt of getting that bill through. The opposition that appeared at the time that it was heard was Sam Hayes of the Judicial Council, I believe he is Secretary of it. Now I hope his thoughts were not taken too seriously by the Judiciary Committee, however in the last three or four days certain items have broken in the newspapers. I read of uncovering a drug catch of some four tons in the town of Gilmanton. I don't believe that Senator Brown had anything to do with it but I see they got more down in Sandown and another large quantity in Franklin. That information to me indicates that

sweet pure New Hampshire may be the United States center for the national drug ring and I believe that some of the newspapers admitted to this fact. I sincerely believe that the Speaker of our Honorable House is not tied to this ring although he is reported to the papers that he has told the press in several interviews that he has been threatened by the telephone. I'm sure that it isn't another case that he is going to be another victim up in Gilmanton. I'm sure that he has nothing to do with it. But indications of such large quantities of drugs in New Hampshire, I can't help but wonder if perhaps some people in high places in this State might know more, that they haven't told us about the possibility of the United States drug ring being centered here in New Hampshire. I only pose it as a question more or less, could it be perhaps that some of these, so vehemently opposed to casino gambling or something like that, might be taking their orders from a drug ring that does not want to see in any way, shape, or manner the close scrutiny that might land on this State to look into gambling that they might find what is undercover in these drugs. I have one other vain I'd like to mention in this line of drugs. In only the last couple of weeks the director of our State Police has testified before a House committee that he was not opposed to the legalizing of marijuana in this State. Now I have spoken before about the drugs in this Senate and I am opposed strongly to any form of drugs and when the Director of our State Police starts coming out and saying that he is not opposed to legalizing drugs then I think, Mr. President, that it's time the Director of the State Police be removed and his resignation be asked for.

Sen. BRADLEY: Senator, just for the sake of accuracy, isn't it correct that the Director of State Police as you referred to proposed not the legalization of marijuana but the reduction of penalty to make it a violation rather than a misdemeanor?

Sen. SANBORN: Senator, the only thing, as I believe Will Rogers used to say, is all I know is what I read in the paper. And the way I read the paper was that he would legalize removing the penalty, I believe, of no penalty at all for small amounts of marijuana which to me is just one step towards legalizing it.

Sen. BRADLEY: I believe you are correct if particularly if you read the political cartoon in one of our newspapers that did use that expression; but I was hoping that you would be

more careful in your remarks and be accurate when calling upon anything as drastic as removal, that you would be accurate in quoting what Col. Doyon actually proposed which was not the legalization of marajuana.

Senator Healy spoke under Rule 44.

Sen. HEALY: I pay special attention to what Senator Sanborn has to say, really, about drugs and that, and with the casino bills coming before the House and Senate in the near future. I feel that perhaps our Attorney Generals might cast a little reflection on to the State and it's business, rather than worrying about the casino and so forth. I'm sure that if the casino bills were in effect in New Hampshire at this particular time, they certainly would be blaming the casino's for subjectivity.

Senator Downing Spoke under rule 44.

ADDRESS BY U.S. SENATOR THOMAS J. MCINTYRE
(D-N.H.)

BEFORE THE

PHI DELTA KAPPA SOCIETY OF EDUCATORS, CON-
CORD, N.H.

7:30 P.M., MONDAY, FEBRUARY 21, 1977

I was honored by your invitation, and I am delighted to be with you tonight.

But I would like to make two points clear at the outset.

First, though I was not asked about the subject of my speech—nor assigned a specific topic—the assumption that I would talk about issues in education was widespread and logical.

But, I am not going to talk about education in specifics. With your forbearance, I am going to make some general observations about education and then try to relate those observations to what I feel compelled to talk about tonight.

I am going to talk about *fundamental freedoms*—*freedom of thought, freedom of conscience, freedom of expression*—and

the *state* of those precious freedoms in *our* State of New Hampshire.

Now I find an audience of professionals who have a vested interest in intellectual and academic freedom an appropriate forum for such a discourse. But I want it clearly understood that this is a judgment I made, and no one in this organization should—or can—be held responsible for what I am going to say.

May I point out, however, that the very fact that I feel constrained to spell out such a disclaimer lends ironic emphasis to the message I would like to leave with you tonight.

Let me begin, now, with some personal observations about education in general.

First of all, I do not consider myself a particularly well-educated man—though, to paraphrase Shakespeare, the fault, dear teachers, was not with the institutions attended, but with the student himself.

Nevertheless, I have a deep and abiding respect for learning and knowledge—not only for the obvious reasons, but for their impact upon the social and political environment.

Let me explain:

I like to think that the litmus test of education is whether it produces arrogance or humility in those who are educated.

The men and women I consider educated in the fullest sense of the word—regardless of whether that education came from cloistered halls or the streets of life—are those who are most humble before their own ignorance.

They *know* how little they know. They understand how much *more* there is to be learned.

I also concluded long ago that this particular humility has a profound ripple effect, its depth and prevalence determining how civil, harmonious and united a society we comprise.

It has always seemed to me, for instance, that those who recognize the shortcomings of their knowledge, understanding and experience, are not so fearful of having their attitudes challenged, nor so reluctant to change them.

They realize that in the temporal world absolutes are evasive and truth elusive. So they understand, as Daniel Webster understood, that “inconsistencies of opinion arising from changes of circumstances are often justifiable.”

They know, too, that it is not a conscious effort of will but the accident of birth that determines into which culture, race, creed and social condition one is born and reared, and that

this “accident” significantly influences the formation of individual value standards, priorities and moral imperatives.

And it results in something else, too, this humility I speak of. It enhances a sense of humanity within those men and women, a compassion for the human condition, if you will.

Contributing as they do to a tolerance *of* and a respect *for* other viewpoints these attitudes and characteristics provide society with that veneer of civility *without which no group can live in harmony and unity.*

We know how precious that veneer truly is. We also know how thin it is, how fragile, how vulnerable to crisis—particularly when cause and cure are hard to define

For then it is that the demagogues move in—seeking scapegoats, burning off the veneer of civility with their blowtorches of recrimination and vilification, and laying bare our baser instincts.

This much said in preface, let me now try to sharpen the focus of my remarks.

If you will agree that civility, harmony and unity are the benchmarks of the civilized society, then surely our New England was the first such society in the New World.

New England, said Bernard DeVoto, “is the *first* American section to be finished, to achieve stability in the condition of its life. It is the first *old* civilization, the first *permanent* civilization in America.”

And I am sure DeVoto would have agreed that the keystone to New England civilization was the Town Meeting—that unique institution that gave people the opportunity to speak and to be heard, to reason toward consensus, to dissent out of conscience, and to do all this within the framework of mutual respect, good will and concern for the common good.

Along with her sister states, New Hampshire, too, was passionately committed to individual liberties, to popular rule through the Town Meeting, and to freedom from imperial edict.

And it shared with the other states of the region another passionate commitment—a commitment to preserve the Union, to *keep* the United States united.

Daniel Webster linked those commitments into a single eloquent phrase when he said:

“Liberty and Union, now and forever, one and inseparable.”

And it was Webster, too, who uttered this fervent and moving prayer:

"When my eyes shall be turned to behold for the last time the sun in heaven," he said, "may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dis-severed, discordant, belligerent; on a land rent with civil feuds or drenched, it may be, in fraternal blood."

I wonder, my friends, what Daniel Webster would say were he to look down upon New Hampshire today.

Would he sadly wonder—as I sadly wonder—how it is that at the very moment when we are beginning, at long last, to emerge from a decade of bitter division the likes of which we have not seen since the War Between the States—at a time when all regions of the country are more alike than ever before—at a time when an incoming President praises an outgoing President for all he has done to heal the wounds of that dark decade—that *our* State—our beloved New Hampshire—is, alas, dissevered from her sister states, discordant, belligerent, and rent with civil feuds?

At constant war with our neighbors, in endless conflict with ourselves, I ask, in anguish, what in the name of God have we let happen to us?

This State of ours, this historic repository of the *best* of America, has been invaded and defiled by an alien philosophy at strident odds with our traditions.

We have allowed ourselves to become dominated by the disciples of conflict and exploiters of division; by pietistic frauds who have cheapened and soiled those intensely personal matters like love of God and country by whipsawing them through the political arena; by flag wavers who scorn the institutions *behind* the flag; by bully boys who brook no opposition, snoop in confidential files, encourage people to inform on their neighbors, slap gag orders on state employees, run rough shod over Town Meeting decisions, pressure independent regulatory agencies, harass the State University, claim all truth and virtue, partition society into "us" and "them," and think of opponents not as candidates to defeat but as enemies to annihilate.

These foes of freedom have never understood what Oliver Wendell Holmes meant when the Magnificent Yankee said: "If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who *agree* with

us—but freedom for the thought that we hate.’’

The coarse disregard for the sanctity of fundamental freedoms is matched, moreover, by a sanctimonious self-righteousness that is oblivious to paradox and irony.

How does one square, for instance, those clamorous demands to return prayer to the public schools to elevate the moral tone of society with that aborted effort to push state liquor store sales on the night before Christians celebrate the birth of Jesus Christ?

How does one square the moralizing bombast over pornography, homosexuality and tasteless college pranks with deliberately exploiting those titillating subjects to win votes and sell newspapers?

And how does one square this obsessive moralizing with the moralizers’ desire to bring casino gambling into the State? Particularly after two Attorneys General have researched and documented what *that* would do to New Hampshire’s moral climate.

Now please don’t misunderstand me. These are *not* partisan remarks. What I am talking about has nothing to do with partisan politics.

The people I am talking about—the demagogues, the bully boys—will never, *never* be able to understand the deep and abiding friendship between Republican Norris Cotton and Democrat Tom McIntyre, because that kind of warm and mutually respectful relationship between people of opposing views is impossible for them to comprehend, much less tolerate.

Civility is not in their vocabulary; mutual respect and good will outside their sphere of comprehension; the restoration of harmony and unity absent from their list of priorities.

Controversy is their stock in trade, their political imperative, and nowhere is this illustrated more dramatically than in their callous manipulating of two current, and highly emotional, issues—the Seabrook nuclear power plant and President Carter’s blanket pardon of draft resisters.

Now I have deliberately singled out these two because they are not only nonpartisan issues but because in this rare instance I happen to share the same general viewpoint as those whose alien attitudes and bullying tactics I so despise and deplore.

I, too, favor construction of the Seabrook nuclear power plant because I can see no other quickly attainable alterna-

tive. And I, too, object to the blanket pardon because I feel a case by case review would be the more equitable approach.

But where I decidedly part company with the bully boys is over that self-same matter of attitudes and tactics.

I have made a real effort to listen to *both* sides of these two controversies. And after hearing them out, I find myself not only respecting the sincerity of those who do not share my viewpoint, but conceding validity to some of their arguments.

In the case of Seabrook, understandable concerns are voiced about the safe disposal of nuclear waste, about the rapidly escalating costs of uranium and nuclear plant construction, about environmental risks—concerns no reasonable person could ignore.

And beyond these concerns, of course, lies a broad philosophical dilemma about nuclear power, a dilemma one of the most thoughtful journalists in New Hampshire considered in a recent editorial.

Citing a *Time* magazine bicentennial essay that described technology as a way of multiplying the unnecessary, *Milford Cabinet* publisher Bill Rotch wrote this, and I quote:

“Opponents of the nuclear projects sense that this may be one of those rare moments in history when man has the opportunity to show whether or not he controls his destiny—or whether he has become a slave to his technology.

“Must we have more ‘things,’” he asks, “just because we have the skill to invent them, to develop them, to produce them? Do we really *need* the products that nuclear power will make possible *enough* to take responsibility for the irreversible decisions that it requires? Seabrook just happens to be one of the battle lines where opposing philosophies confront each other.”—end of quote.

It should be obvious then, that the Seabrook debate is over a highly complex issue involving the fiscal, the physical and the philosophical, and yet, my friends, the bully boys I have been talking about have succeeded in reducing it to insulting simplicity.

They would have us believe that Seabrook is opposed only by a rag tag band of “eco-freaks,” as they call them, aided and abetted by obstructionist regulatory agencies.

Now I, too, get impatient with some members of the environmental movement—especially when their zeal seems to blind them to *human* need. And I, too, have been distressed and angered over what seem at times to be capricious and

arbitrary delays of a final regulatory commission verdict on Seabrook.

But to pretend, as the bully boys pretend, that *only* clam lovers and the regulatory commissions have reservations about the Seabrook plant is an affront to common sense and simple observation.

Hard-headed businessmen whose judgment I respect—even when I disagree with them—have told me they are worried about cost over-runs and the erratic performance record of some plants already on line and they question just how long nuclear power will remain economically feasible *even* in the Northeast. My friend Jim Walker, of Laconia, has raised serious questions about the ultimate responsibility for the safe decommissioning of the Seabrook plants after they have exhausted their generating capacity. And thoughtful people like Bill Rotch, as I have noted, have questioned the almost cosmic consequences of a decision to proceed with nuclear power.

But even more reprehensible than the deliberate attempt to make the public believe that only the irresponsible and the unthinking oppose Seabrook is the bully boys' blatant effort to stifle *all* opposition to the project.

For now, my friends, we are confronted with something of far more ominous consequence: the deliberate suppression of a fundamental freedom—*the right to dissent*.

Nor is this the first New Hampshire issue where attempts have been made to crush dissent. When the Durham Town Meeting voted against the locating of a giant oil refinery in that area, the bully boys pushing the refinery tried to get the legislature to override home rule. When the State Director of Economic Development had the temerity to voice his objections to a pulp mill for Walpole, he lost his job. And when the Seabrook issue first surfaced, the bully boys declared it was official state policy to support the project and then made an abortive attempt to slap a gag rule on state employees who might not share their enthusiasm for the project.

And now we read newspaper accounts of how in more recent days the bully boys have used Federal funds to pay for the printing of pro-Seabrook petitions, how they ordered them placed in state liquor stores, how they encouraged liquor store employees to solicit signatures, how some of those employees were led to believe that if they signed an anti-Seabrook petition there could be quote "repercussions," and how people

soliciting opposition petition signatures outside a state liquor store in Nashua were .

This is not only appalling, my friends. *It is frightening!*

The right to petition belongs to *everyone* in our State. *Not* just those who are in power. Freedom of thought, freedom of expression, freedom of conscience, those are fundamental, universal rights *and they are not to be suppressed or denied* by arrogant despots who think their policy is sacrosanct and that *our* State—the State that belongs to *all* of us—is theirs to do with as they will!

And what they have tried to do with Walpole and Durham and Seabrook they have tried to do with the President's pardon of draft resisters, once again portraying *their* position as the position of *all* the people of New Hampshire.

Hence the arbitrary lowering of the flags to half mast to symbolize the State's condemnation of what was called "A Second Day of Infamy."

Now I am certain a good many New Hampshire people did, indeed, disapprove of the general pardon. And I was one of them. But were any of you asked if the flags should be lowered? Were you asked if New Hampshire should make a blanket indictment of the pardon?

Of course not.

Well, I don't know about you, but I deeply resent anyone using the flag of the United States as his personal weather-vane of passions and prejudices—particularly when such flamboyant displays are so transparent and politically self-serving.

To pretend shock, dismay and disbelief over the granting of the pardon defies credibility. President Carter went before the National American Legion Convention last summer and forthrightly announced that if he were elected he would grant the pardon as one of his first acts of office.

Moreover, considering its controversial nature, the granting of the pardon was *not* a politically expedient move. Though I disagreed with the President, I respect his sincerity and I take his word that he granted the pardon to put Vietnam behind us, just as his predecessor pardoned Richard Nixon to put Watergate behind us. Both Presidents acted out of compassion, and with the expressed hope that what they did would hasten the closing of ranks and the healing of a society wounded by a decade of bitter division.

But the people I am talking about don't want healing. They don't want harmony. They don't want unity. Again, controversy is their life's blood, and conflict their stock in trade.

They use these issues to set us one against another—to pit the working man, his worry about a job, his anguish over soaring fuel and power bills, against those who have sincere doubts that Seabrook will yield lasting employment for more than a few technicians, will be able to lower utility costs for more than a few short years, is truly a reliable and long-range answer to our energy problem.

They use the pardon to exacerbate the wounds of a misbegotten war that victimized those who fought *in* it—those who fought *against* it—and the loving families of the young men in *both* groups. To express objection to the pardon is one thing. That is everyone's right, and I exercised it. But to inflame the issue deliberately, to exploit it politically, to risk inciting damage or harm to those pardoned, to raise false hopes that somehow the President could be forced to rescind his order—well, that is *cruel*, that is irresponsible, that is raw, naked, opportunist politics at its worst!

Now I realize that what I have said tonight will not please everyone.

Indeed, some of my advisors wanted me to maintain a discreet silence, fearing that by speaking up as I have I would invite attacks upon me and upon my supporters.

Well, my friends, if the day ever comes when Tom McIntyre is afraid to appear before a New Hampshire audience committed to freedom of thought and talk about the suppression of dissent, the loss of civility, the tyranny of power, and the brutal efforts to divide us as a people, then I *deserve* to be attacked. And New Hampshire is no longer a citadel of fundamental human freedoms.

I do not know how—or when—I will leave the office I now hold. But when I do, I hope to be remembered for one thing above all. I want to be remembered as a Senator who kept faith with the legacy of the State where he was born.

I want to be remembered as a man who fought the foes of freedom.

Thank you.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to

third reading be read a third time by this resolution and that all titles be the same as adopted, except CACR 8 and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday at 1:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 47, establishing a fourth New Hampshire song and providing for the designation of an official New Hampshire song.

HB 54, relative to the administrative procedures act.

SB 58, relative to the rule-making powers of the weights and measures division of the department of agriculture.

SB 41, relative to the deposit of state funds in approved banks.

SB 24, relative to the statutory definition of "farm, agriculture, farming."

SB 21, relative to the forfeiture of propelled vehicles used in the commission of certain crimes.

HB 13, establishing a hunting season for the taking of foxes and classifying the fox as a fur-bearing animal.

CACR 8, relating to: The Trial of Crimes Providing that: District Courts May Try Crimes in a County Other than the County in which the Crime is Committed.

Division vote: 20 senators voted yes. No senators voted no.

Adopted.

Senator Rock moved to adjourn at 4:45 p.m. until Thursday at 1:00 p.m.

Adopted.

Thursday, March 3

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Vincent Fischer, Senate Chaplain.

As we come to the close of another Legislative Week, may we feel honestly, within ourselves, that we have done those things which we ought to have done, and that we have really earned a rest in the knowledge that without thee lord, it could never have been accomplished.

May his spirit remain with us as we within this framework of fellowship leave this Senate chamber today.

Amen

Senator Brown led the Pledge of Allegiance.

INTRODUCTION OF HOUSE MESSAGE

Mr. President:

The House is ready to meet with the Honorable Senate in Joint Convention to hear Chief Justice Kenison address the Convention on the state of the judiciary.

Recess.

Out of Recess.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 96-99 shall be by this resolution read a first and second time by the therein listed titles, laid on the

table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 96, relative to emergency expenditures under the municipal budget law. (Sanborn of Dist. 17—To Executive Departments, Municipal and County Government)

SB 97, increasing the appropriation for regional vocational education centers. (Preston of Dist. 23; Rep. Scamman of Rockingham Dist. 15—To Joint Finance and Education)

SB 98, establishing a state elections council, establishing the position of chief elections officer and making an appropriation therefor. (Sanborn of Dist. 17; Monier of Dist. 9; Rock of Dist. 12; Fennelly of Dist. 21—To Executive Departments, Municipal and County Government)

SB 99, relative to supervision of bail bondsmen by the insurance commissioner. (Bossie of Dist. 20; Rep. O'Connor of Strafford Dist. 18—To Judiciary)

FURTHER HOUSE MESSAGES HOUSE CONCURS

SB 86, making an appropriation for capital improvements at Winnisquam lake dam.

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 73, 453, 102, 123, 134 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 73, relative to mental health services for minors. To Public Institutions.

HB 453, relative to serial notes issued by the town of Bedford. To Executive Departments.

HB 102, prohibiting the removal of serial numbers from certain products. To Energy and Consumer Affairs.

HB 123, relating to the establishment of complementary facilities by banks. To Banks.

HB 134, permitting each town discretionary power to determine whether the trustees of trust funds publish a full or a summary report in the annual town report. To Executive Departments.

ENROLLED BILLS REPORT

SB 86, making an appropriation for capital improvements at Winnisquam lake dam.

HB 13, establishing a hunting season for the taking of foxes and classifying the fox as a fur-bearing animal.

HB 54, relative to the administrative procedures act.

Sen. Lamontagne for the committee.

Senator Downing moved to reconsider the action of Tuesday to place comments of Senator McIntyre in the journal.

(Senator Saggiotes in the chair)

Sen. BRADLEY: Senator, if this is something you'd like to have in the journal, I'd be surprised that anyone would object to your having it in the journal. I was just wondering, could you tell us very briefly what the nature of the communication is?

Sen. DOWNING: This was a major address by Senior U.S. Senator before the Phi Delta Cappa society of educators in Concord on February 21 and it touches on the Seabrook question which is ever present with us certainly today, on the amnesty questions, it quotes Daniel Webster very pertinent subjects he mentions in this address and I thought it was worthwhile reproducing in the Senate Journal and that was why I was tempted I must say to read it into the record. I thought I would save the time of the Senate by just offering it to be printed. I think it is deserving of a permanent record somewhere and I felt the Senate Journal was the place to have it.

Sen. SMITH: By your last remarks are you indicating that if the Senate does not go along with having it put into the journal under the present existing conditions as it was done, then probably you would read it into the journal?

Sen. DOWNING: That would be my inclination, Senator.

Sen. ROCK: Am I correct Senator under rule 11 that if there is an objection to the reading of a paper there must be a vote by the Senate without debate?

CHAIR: I believe you are correct, Senator.

Sen. DOWNING: I don't believe that applies to personal privilege.

Chair would have to state that I was not present when this took place and I was unaware that it was done under personal privilege.

Sen. DOWNING: Mr. President, there has been nothing done under personal privilege up to this point but I would take the position that the Senator was speaking under personal privilege but objections from reading a document or otherwise would not prevail.

Sen. JACOBSON: I put the notice of reconsideration on this after consulting with the Clerk of the Senate as to the question of policy. We have not entered speeches of persons who have not addressed themselves here in the Senate prior as far as we know. It seemed to me that if we open the door to allowing speeches and this is not a commentary about whether it is a good speech or a bad speech. We then set a very important precedent because I know of no reason why not Senator Durkin's speeches, Congressman D'Amour's speeches, Congressman Cleveland's speeches, the Governor's speeches could all be requested to be entered into the Senate journal so that for me it is not a question of Senator McIntyre's speech but whether or not we are setting a policy that has heretofore not been invoked. With that consideration, I asked for the reconsideration so that we might be aware of what we are in fact potentially doing. I think it should also be noted for the Senate that Senator McIntyre himself has a total privilege of entering any speech he makes into the Congressional Journal so that it may be publicly preserved forever so to speak. Furthermore, I understand that the speech had wide newspaper publicity and also that it had a wide mailing so that what I am asking the Senate to decide, and its up to the Senate to decide whether they want to move in the direction of establishing this kind of policy or whether we want to be careful about this matter or not.

Finally, I think it is important to bear in mind that there is the cost of publication so that there are these questions which I did not have any time to investigate since notice of wanting to do this came to me on the floor and I did not want to enter into a debate at the time until I had a change what in fact the facts are. I have read the speech and it is a speech that deals with various questions but it also is a speech that many people have dealt with who are not members of the Senate so that I shall not speak for or against reconsideration. I have my view on it and I want the Senate to make a decision as to how they feel about entering these kinds of speeches into the Senate Journal.

Sen. DOWNING: Senator, are you aware that I am on my fourth term in the Senate now?

Sen. JACOBSON: I am aware of that.

Sen. DOWNING: Have I ever requested a speech of Senator McIntyre or any other official to be read into the journal?

Sen. JACOBSON: As far as I know, neither you or any member of the Senate in the five terms I've been in the Senate.

Sen. DOWNING: Then do you feel your concern that this may create some sort of a wave of requests of this type, do you really feel that's justified?

Sen. JACOBSON: My feeling on it is that if Senator Downing's request is honored then the privileges of the other 23 members of the Senate.

Sen. DOWNING: Senator, wasn't the question put to the Senate if they had any objection and only with the consent of the Senate was it ordered by the President to be printed?

Sen. JACOBSON: That is correct.

Sen. DOWNING: Do you object to the question being put to the Senate at any time on any matter whether it being a speech or anything else a Senator wants to do?

Sen. JACOBSON: I'm not sure the content of your question.

Sen. DOWNING: You seemed to be concerned, Senator, that the Senate may be asked to do a similar thing in the future, don't you feel the Senate is capable of dealing with that on an individual basis? Each solicitation as it came up, deal with it, it doesn't mean that everything is going to be printed it's that which the Senate approves will be printed.

Sen. JACOBSON: I am confident that the Senate now and in the future will be able to make its own decision. My ques-

tion is, is this going to be a policy, and I would personally find it difficult to reject any Senator if he wants to adopt the policy. If we adopt the policy, then I am satisfied.

Sen. DOWNING: Then I understand Senator that you have no problem with the Senate deciding on an individual basis this type of question from time to time?

Sen. JACOBSON: I have never had a problem with the Senate deciding any question.

Sen. TROWBRIDGE: There is one thing I'd like to bring up here, I've been here for 10 years and you do go back and look at some of the journals of the House and the permanent journals of the Senate and its strange how little they reveal of what was going on in the life and time of session. They are pretty straight forward, HB 571 pass, fail. There is really no record of what was going on at that time. I think the Senate Journal being the only one that's small enough to be controlled where you do have a record of debate in the Senate Journal, that's the only place where you get all our remarks. Here would be an opportunity to say, if the Senate agrees, to take in some of the things that are going on around that are influencing legislation so that 100 years from now someone could see what the Senators were talking about. Our rule 44 helps give that kind of thing. I, frankly, think we don't have much to fear here and I think we could gain for the state a good deal of the flavor of times looking forward if we could from time to time put in pertinent things that are influencing the Senate. I think we should vote no on the reconsideration.

Sen. ROCK: Senator, having heard your remarks relative to the importance of establishing some sort of historical intent with the journal and agreeing with you to some extent, do I understand from the remark that the journal is to be some historical reference for all things that happen in the state rather than those things that happen only in the Senate?

Sen. TROWBRIDGE: No. I didn't say that. What I said was those things that are influencing on the minds of the Senate. So that it is not all things, I'm not asking for a history file, I'm asking for those things that are on the minds of individual Senators. That would be how it's concluded. There are only 24 people who's minds are going to be involved in this particular historical record.

Sen. ROCK: Would not a person who is interested in the actions a hundred years from now of the state or of any goings on be able to check them in any reference library. I'm not

sure, but I think I've seen the Senator's speech reproduced in at least three newspapers in its entirety. Have you seen it in any newspapers?

Sen. TROWBRIDGE: Sure I have. I'm not talking about that. I'm talking about things that the Senators brought in that were selected. There might be something that was never printed anywhere and that might be part of why we use the rule here is in order to inform the public as to what was on our minds and what was influencing them. How do they know if we read this speech or not? That's the point.

Sen. SMITH: Two questions. If we vote no or vote yes are we not in fact establishing a policy?

Sen. TROWBRIDGE: We vote either way we are establishing a policy. Yes.

Sen. SMITH: Secondly, if we do establish a policy as you seem to be in favor of which I also see no objection to, if this policy were abused and people started bringing in recipes, one thing or another, and it became abused would it not be possible for the Senate to establish a rule permitting such remarks?

Sen. TROWBRIDGE: As I think Senator Downing remarked, what we are saying is on a one by one basis. He comes in and is saying if there is no objection it goes in the record. Now if someone comes in and starts putting their recipe book in, I'll be the first to object. But I don't think that's what we are talking about. I think the policy that Senator Downing is proposing is you take them up on an individual basis. Am I not correct? So that how can you be caught by a precedent when you can turn around the next day and say no.

Sen. LAMONTAGNE: Mr. President and members of the Senate. As you probably all know this is my 12th term and therefore I have seen over a period, and especially in the year 1957 the Honorable Senator Benjamin Adams who had some material although the difference is between Senator Downing and Benjamin Adams is that he read the document that he had and therefore read into the records. Now, what Senator Downing has done is that he had proposed and offered to read it to put it into the record and therefore if he had read it, there would have been no objections, I'm sure, if he had requested they put the matter into the journal. But I think the Honorable Senator who has turned around with his material did not read it in order to save time of the Senate. And I agree that he did save some time and I don't see any objections.

Senator Blaisdell moved the previous question.
Senator Bossie requested a roll call.
Seconded by Senator Bradley.

The following Senators voted yes: Senator Jacobson, Senator Brown and Senator Rock.

The following Senators voted no: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Blaisdell, Trowbridge, McLaughlin, Keeney, Hancock, Healy, Sanborn, Provost, Bossie, Fennelly, Downing, Preston and Foley.

3 yeas 19 nays

Motion failed.

INTRODUCTION OF CONCURRENT RESOLUTION First and Second Reading

SENATE CONCURRENT RESOLUTION NO. 4

to petition Congress to call a convention to propose an amendment to the United States Constitution to require a balanced federal budget, except in a national emergency.

Referred to Rules.

(Senate President in the chair.)

COMMITTEE REPORTS

HB 116, relative to the taxation procedure in village districts. Ought to pass. Senator Poulsen for the Committee.

Sen. POULSEN: Mr. President, this bill only requires that districts, either village districts, lighting districts, water districts, or any such have to report to the department of taxation the outcome of any vote that has to do with any money to report the result of any vote within 10 days to the department.

Ordered to a third reading.

HB 65, relative to the procedure for discharge from employment of the superintendent of the county farm. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President at the present time the superintendents of county farms have no coverage of personnel practices and they may be discharged at the whim of the county commissioners if that were indeed the wish of the commissioners. This bill will provide that superintendents of county farms will be entitled to the same sort of consideration if there is a possibility of a discharge.

Sen. BRADLEY: Is there anyone between the superintendent of the county farm and the commissioners, or does he work directly under the commissioners?

Sen. HANCOCK: He works directly for the commissioners.

Sen. BRADLEY: In a sense then, he is chief executive officer of that enterprise and it is quite common that a chief executive officer of an enterprise at least in the public sector working under a board does serve at the pleasure of that board and I often thought there was some value in that kind of system I am wondering if we are not eliminating that value by this bill.

Sen. HANCOCK: By way of explanation at the hearing, Senator Bradley, the bill was introduced by Rep. Theriault of Coos District 9, at the request of the superintendent of the Coos County Farm and they were the only two who appeared in favor of this bill and by way of explanation there are four superintendents of county farms at this time to whom this would apply. The others seem to be called something else and I don't know what their personnel code is, but this bill would only apply to the four superintendents who are currently holding their jobs in that capacity.

Sen. SANBORN: Senator, I'm looking over here some of the things of employees of the county institution. It says at least one year employees will not be discharged or removed from employment unless dishonest, intoxicated and so forth and then it says for the good of the institution? Can you explain to me what you mean by the good of the institution?

Sen. HANCOCK: No I cannot explain that to you. The only thing that this bill does is add the superintendent of the county farm to the already existing legislation, now you might challenge that on another ground but the only thing the commit-

tee heard was asking for the superintendent to be included under this personnel provision that currently exists. I think that much of the wording of the entire statute is subject to a lot of scrutiny.

Sen. PRESTON: As indicated in the report by Senator Hancock, the only changes is the addition of the word superintendent and place them in the same category as all the other employees and your correct Senator Bradley there are three or four serving at the pleasure of the county commissioners and there are no problems. This bill isn't designed to help anyone in particular. But they thought it would be good business to categorize all the employees in the county so that they would be suspended for justified causes other than political motivation.

Adopted. Ordered to a third reading.

SUSPENSION OF RULES

Senator Preston moved that the rules of the Senate be so far suspended as to dispense with the hearing and notice of a committee report and to allow HB 453 be placed on second reading at the present time.

Sen. ROCK: Copies of the bill have been distributed and I'd like to read a brief explanation as to why this is before you under suspension of the rules. On March 9, 1976 the town of Bedford voted 184 to 35 in favor of raising an appropriation of \$65,000 for the revaluation of real estate in the town. Such sums to be raised by the issuance of bonds or notes. Based on previous experience they felt they were acting legally. The following day they sent copies of the town report to various departments of the state. It was not until they were talking with Mr. LaPlante of the Department of Revenue Administration regarding some articles for this years warrant that he called to their attention they could not raise the money in that manner. He said they had two alternatives. First, ask the town for the remainder, they had already spent about \$6,500, or to ask their representatives to introduce a bill legalizing the town meeting. Mr. Alfred Lambert the selectman called Representative VanLoan from the town of Bedford asking that the bill be introduced. The two other representatives agreed to co-sponsor the measure. To ask the town to pay the remainder

of the money in one year would be indeed a financial burden, the town was not ready to assume. They therefore opted for the introduction of a bill to legalize the meeting. The reason it is brought to your suspension of the rules is that it must come back now to the town for their town meeting and the urgency be signed and enacted by next Tuesday. While Bedford is not in my district the Senator who represents the district is away and I've asked that the bill be introduced by Senator Preston, Vice-chairman of the committee, in this manner as a house-keeping matter for the town of Bedford.

Sen. BRADLEY: Senator, I am still kind of at a loss to understand what Mr. LaPlante claims they did wrong.

Sen. ROCK: Well, Senator, I have had very little experience with state departments but I'm at a loss to understand a lot of things that Mr. LaPlante says and does, but apparently he wheels a great deal of power and there was another bill that we will have to bring before you that has to do with the South-eagan Landfill district. Mr. LaPlante in his bureaucratic way has ruled something we don't agree with but seems to me the only way to do it is to accede to Mr. LaPlante.

Sen. BRADLEY: I ask this is part because I've had similar problems with constituents or clients who have done things that would seemingly be o.k. but for some very technical reason that Mr. LaPlante raises he doesn't approve it, and indeed he does wheel that power because he gets to review the budget. I'm trying to collect them, if you will, as to what it was he said they did wrong and all I hear in that report is that Mr. LaPlante said they couldn't do it that way and I'm wondering what way did they do it.

Sen. ROCK: I believe what Mr. LaPlante is questioning, you will find in paragraph two of the bill and they voted issue notes for a period of five years for the revaluation and his ruling was they couldn't do that that way because of the length of time; two year period was all he would recommend so to legalize this what they did. . . .

Sen. DOWNING: Senator, I am always very cautious about taking action on this in a district of another Senator when we don't have the benefit of his opinion. Do you have any idea of basis knowing what Senator Monier's opinion would be relative to this bill?

Sen. ROCK: No I don't. I know that the House also took action on this under suspension of rules and the three

representatives in the town that it directly affects and it affects only that town joined together in support of it.

Adopted.

HB 453, relative to serial notes issued by the town of Bedford. Ought to pass.

Adopted. Ordered to a third reading.

SB 13, making supplemental appropriations to the pharmacy commission for the fiscal year ending June 30, 1977. Inexpedient to legislate. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This seemingly harmless bill which I think otherwise I would support, is one of those things where there is an attempt by the pharmacy commission to fill up it's coffers because it is running out of money at the end of 1977. If we were to grant this request I can think of a flood of other requests that would come before the finance committee. It is nothing unusual. Mr. Fortier said. We've had a busier year than usual and an influx of pharmacists are coming into the state. They are having trouble doing it but all I can say is that I can't distinguish the Pharmacy Board from any other board and therefore we are dodging by saying we are not going to give any of these supplemental appropriations. I'm viewing the fiscal picture we now face.

Sen. BROWN: I am the sponsor of the bill and I do agree with the committee report inexpedient to legislate. The reason being \$2,800 was taken from them by executive order and it has been restored.

Sen. TROWBRIDGE: Not knowing that, we did the right thing.

Sen. SAGGIOTES: Mr. President. I rise in support of the motion. I want it to show on record that I support the committee report on this bill on the merits of the bill rather than putting myself on record as opposing any other future legislation for supplemental appropriation because there may be another bill coming before us that is more deserving than this one. I support the motion on this basis.

Adopted.

HB 61, providing for payment of a claim to Cpl. Tech Henry P. Paris, Jr. New Hampshire State Police and making an appropriation therefor. Ought to pass. Senator Blaisdell for the committee.

Sen. BLAISDELL: Mr. President, members of the Senate, Trooper Paris is one of the state police members who was given a police dog for official state police use. Unfortunately, the dog bit trooper Paris's son and even though he has a considerable amount of medical expense covered by BC/BS as he stated to the committee, \$208 was not paid and this bill simply provides that that amount be given to Trooper Paris and the Senate was unanimous, senate finance committee was unanimous in paying this out.

Adopted. Ordered to a third reading.

HB 74, reimbursing the North Conway fire department for search and rescue operations and making an appropriation therefor. Ought to pass. Senator Blaisdell for the committee.

Sen. BLAISDELL: Mr. President, HB 74 has been here as many years as long as I have been here anyways. This bill would give to the North Conway fire department \$823 to cover expenses incurred during the search and rescue operation at Ecco State Park. We have been doing this for years and I guess this is the procedure.

Sen. SANBORN: Isn't it true Senator, that the North Conway fire department has a specially trained team for search in the mountain area up in that area?

Sen. BLAISDELL: No question Senator Sanborn. It is an excellent team and it is a well spent appropriation fund.

Adopted. Ordered to a third reading.

SUSPENSION OF RULES

Senator Preston moved that the rules of the Senate be so far suspended as to allow **HB 453** be placed on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

HB 453, relative to serial notes issued by the town of Bedford.

Adopted.

SB 7, establishing retirement and permanent disability benefits for district court justices. Majority report—ought to pass with amendment. Minority report—Inexpedient to legislate. Senator Bradley for the Majority, Senator Bossie for the Minority.

Senator Bradley offered an amendment.

Amendment to **SB 7**

Amend RSA 502-A:6-a, II as inserted by section I of the bill by striking out the same and inserting in place thereof the following:

II. As additional compensation for services rendered and to be rendered, any justice of a district court who is not permitted to engage in the practice of law under RSA 502-A:21 who retires after becoming 65 years of age after serving as such a justice for at least 10 years, shall receive annually during the remainder of his life an amount equal to $\frac{3}{4}$ of the currently effective annual salary of the office from which he is retired, to be paid in the same manner as the salaries of the justices of the court are paid; provided however, that any such justice who is not permitted to engage in the practice of law under RSA 502-A:21 who retires upon becoming 70 years of age who has served as such a justice for more than 4 years but less than 10 years shall receive annually during the remainder of his life an amount equal to $7\frac{1}{2}$ percent of the currently effective annual salary of the office from which he is retired times the number of full years which he served as a justice, to be paid in the same manner.

Sen. BRADLEY: First of all Mr. President the journal is inaccurate in that the majority report says in the Journal ought to pass. The correct majority report is ought to pass with amendment. The amendments have been passed out in a

mimeograph. This bill would establish basically the same retirement program for district court judges as is now in existence for the superior and supreme court judges who are of course all full time. The only full time judges now in this state are in the cities of Nashua, Manchester, Concord, and Keene. Under existing law whether or not you get to be a full time district court and therefore full time district court judge depends on the amount of the caseload. Those are the only ones that qualify. Of course you all know it is my goal and this is of appropo of Judge Kennistons remarks today that move in the direction of more full time district courts; but that doesn't necessarily bear on the merits of this particular proposal. This particular proposal applies to those judges who are full time district court judges who have under the law been required to give up their law practice when they take the bench. Therefore, they have no ability other than the salary they are now receiving to provide for their retirement and it only seems fair and fitting to a majority of the committee that if we require under the law these judges to give up their law practice in the same way that the superior and supreme court judges have to give up their law practice that they have an equivalent retirement program. Now the question always is money and we did make an examination an inquiry of the present cities that have full time district court judges and it was clear that the amount of "profit" being made by those district courts and being turned over to the towns is far in excess of any amounts that could be predicted would become payable under retirement under this bill. So this isn't costing the state any money. Its costing the cities money in the sense they are not going to get quite as much from the district court as they might otherwise but they don't have to come up with new money to cover it. Hopefully, of course, we attract the very best people from the legal profession into the judiciary and particularly the full time judiciary and it seems to me that one of the ways that we best insure that we do that is to have a good retirement system. Now the amendment changes section II of the bill to some extent. Section II of the bill as printed is the precise system which is employed at the superior and supreme court level. That is 70 years with 7 years practice or 65 years with 10 years practice. I shouldn't say practice, sitting on the bench. Either one of those retirement is optional after 65 and mandatory at age 70. The committee had some problem with that I think in part because it somehow smelled as if it was being tailored to

fit some particular instance although I'm sure it wasn't because it is just copied from the superior supreme court. We've gone to a slightly different formular which is the amendment and there is no great magic in it; but it still is 65 and 10 years on the bench or if you go to 70 and you've got at least four but less than 10 you get a graduated thing into $\frac{3}{4}$ of what your salary was when you retire. I haven't said that very well. The basic retirement if you get the full number of years in is $\frac{3}{4}$ of what your last salary was before retirement. If you have less than 10 years but you go to age 70 and you've got four to ten years we've got a sliding scale giving you a portion of the $\frac{3}{4}$ depending on the number of years.

Sen. BOSSIE: Moved that **SB 7** be referred to the judiciary committee for interim study.

Sen. BOSSIE: I had moved a minority report of inexpedient but I think in reference to the sponsor Senator Rock and to Senator Bradley, who is doing a very good job on the full time district court bill, be preferable rather than just killing this bill to send it to our committee so that when we study the district court bill that we could make it an intrical part of it. Now I have several reasons for opposing this bill and one of which is that it is non-contributory. How many of you ladies and gentlemen in this room have a pension system that is non-contributory? I would suspect and maybe Senator TROWBRIDGE might enlighten us. He is probably one of them larger employers here but I do know that in my office, I don't and I have got an IRA which I paid for myself. What I think a lot of our towns and cities might want to do if we have a full time system is to go this route and we do understand that these district court judges are not overly paid and I would support a bill to increase their salaries. As we know now the judges of the district courts in New Hampshire are paid by the number of cases and so the four courts we are talking about mainly Manchester, Nashua, Concord and Keene the judges earn a minimum of \$20,000 here in Concord and \$30,000 in the city of Nashua and Manchester and certainly considering the caliber of the people that we have as judges; but I do think if we are going to have a free lunch that we should do it in a manner that would be possitive. I don't really go for the idea that if you retire that your widow gets part of this and your children under 18 get part of it especially, if it is noncontributory. I think if they want it so that it will be vested then we should have a plan to make it vested and make it contributory. I think

one of the biggest mistakes that we have made in a long time is two years ago and I confess to this error too is we passed one for the superior court. We should have made it contributory because now they will say you better give us some more money so we will be able to pay for it. Our other employees for the State of New Hampshire don't receive this benefit. Also I do know that in a number of communities that the judges are permitted and especially the full time judges are permitted to participate in the city plan. In the City of Manchester we have two full time judges both are in the city plan. Its vested. They contribute part of their salary too. As I say, I don't see anything wrong especially with the judges who did appear before us. The judge from Nashua particularly Judge Harkaway is a very fine gentlemen. Before he became a judge I'm sure he was accustomed to a very high salary with his law firm and certainly the people I'm sure appreciate his talents. But the fact remains that if you are going to do it lets do it right unlike what we did two years ago. I think this needs some more study and I'd be willing personally to work on that and toward that end.

Sen. TROWBRIDGE: Senator Bossie. I share your views about this thing. On the judiciary are you aware that the probate judges are bringing in a bill for their retirement and there are a number of things going on. Are you aware that the reason we did the superior court and supreme court was that they were too small a group to be actually composed. You have got to have at least 50 people to have an actuarial pension system. Would you possibly consider referring amending your motion so that the retirement group in the finance committee could work with the judiciary and take the probate judges, the supreme court, everybody and put them on a sensible system, would you mind having it all go together rather than one?

Sen. BOSSIE: You know, I really have no objection to any positive step of any nature; but let me say again, I am opposed to probate judges particularly in any pension and I will fight that on this floor, I assure you, because that is just bad. In a number of counties the probate court sit twice a month and they earn special fees all over the place, so I would oppose that. Now as far as the district court judges, this applies to four different courts and I believe its a total of six judges. I just wonder if this would be satisfactory. I think in the end if you start fooling around in supreme court justices and

superior court justices they are going to be very resentful toward that because I don't think they want to contribute either. If I were them, I don't blame them.

Sen. TROWBRIDGE: Do you realize now that the probate judges are in the retirement system. They are the only ones in the retirement system whereas as the superior court judges used to be in the retirement system contributing. We took them out of that and the supreme court we never did anything to had no retirement plan until about four years ago, don't you think that some uniform plan of the judiciary should be proposed.

Sen. BOSSIE: Yes, I think it should be uniform but at the same time a number of the justices who are full time are in the state system. They are in the state system now, they want to get out of it. That's what this bill is all about. They want to get out. Right now the judges in the Nashua District Court are in this contributory system which is totally inadequate. It's inadequate for their needs and whereas in Manchester they are in both systems in the state system or the city they chose to have it vested because the State of New Hampshire system is really not very good at all for our state employees as well and you are much more an expert than I am. The fact remains that I guess I don't mind if you study it because I think you will probably come up with something good, however, I just want you to be aware that if you are going to delay the fight, I'd just as soon have the fight today and don't waste your time.

Sen. TROWBRIDGE: My question is if you are saying that the judiciary has to have a separate rule and cannot be in the state system, if that is what you are saying they have to get out of the state system, all the other state employees are in that system why is it we provide for the judiciary differently than anyone else, for instance, the Commissioner of Resources and Development?

Sen. BOSSIE: I don't think we necessarily should. I guess its based on the benefits. As we know when we are talking of a group of 10 people we have less of a problem with money then if we talk 10,000 state employees who want a nickle raise, that's a lot. But if we are talking about judges who want \$100 raise, that is nothing. This is the problem if you want to amend my motion to send it to your committee, we really would have no problem. I would like no action on this bill until you people have made a determination and we have a chance to review it.

Sen. BRADLEY: If the Senate were to pass it today would the bill be referred to finance under our rules since it does indeed involve finances? The common practice is that the bills that have appropriations written in to them are referred to finance. I don't know that it has been a practice to send this type of bill to the finance committee but that could be done on action of the Senate as we said earlier the Senate can do anything it wants.

Sen. BRADLEY: Senator, I have no objection at all to having your committee have a look at his and to try to make some order out of the retirement differences here. I would like to ask whether or not its the feeling of your committee the distinction ought to be made between judges who are full time and therefore prohibited from practicing law and the judges such as the probate judges who are up to now able to carry on a practice.

Sen. TROWBRIDGE: Well, we have not yet considered that, the probate judge bill is just being drafted, that is all I know. Presumably that will come to our committee at some point and we will have to make that determination. We have in the past all the covered full time judges, supreme court and superior court. That's all we have done so far in the last four years. So we have been dealing with full time judges yes.

Sen. ROCK: As I understand the motion before the Senate at this time is to send **SB 7** to interim study. I rise in opposition to that motion as the sponsor of the bill and having set through the testimony and beyond that having discussed the situation with several very talented jurists particularly from Nashua who find that, the 690 cannon is sent down from the supreme court prohibiting these gentlemen from engaging in any other pursuits is particularly restrictive. I know that the ability of these men to earn far more as a private practicing lawyer goes without question certainly I'm sure with most of the Senators. I do not look upon the salary that's paid for instance in Manchester or in Nashua to be exorbitant or luxurious for someone who could in private practice indeed earn upwards to 75 to 80 thousand a year. To work as they do so diligently for far less shows their good faith and interest in their community. I can feel, however, some willingness to see this matter referred to the Senate Finance Committee for a closer look but I believe that interim study would not be acceptable so if Senator Bossie would accept an amendment to his original motion I would move at this time that the motion be amended that **SB 7**

be referred to the Senate Finance Committee for further action.

Sen. BOSSIE: I withdraw my motion and Senator Rock may make his motion.

Sen. ROCK: I move at this time if the chair accepts a motion of this nature to vacate SB 7 from the Judiciary and refer it to Senate Finance.

Sen. ROCK: I have not seen the amendment until today, however, I can understand Senator Bradley's explanation of it. It was quite clear and I move that we adopt the amendment to SB 7 at this time.

Sen. HEALY: This is the first time that I have seen this type of legislation and I personally think it is an insult to the people of the State of New Hampshire and particularly the people of my city. I disagree to a great deal and I would like to refer a couple of questions to Senator Bradley. Senator Bradley it is my understanding that these judges pay nothing towards their pension? What do they do for compensation or payment towards a pension, do they contribute in any way towards a pension?

Sen. BRADLEY: The existing plan for the superior and supreme court judges is that they do not contribute they get 3/4 of their salary upon retirement. I understand from Senator Trowbridge's remarks that the probate judges are in the state system which is a contributory system. The district court judges which this bill concerns us with have no system other than I understand that the judges in your city have or are a part of municipal retirement system.

Sen. HEALY: Are these jurists, judges—district judges are they under social security also?

Sen. BRADLEY: I assume they are. Yes.

Sen. HEALY: Would this if they reach 65 authorize two pensions to these same people? Social Security? State and city?

Sen. BRADLEY: I guess I'm not an expert on how social security meshes with other current plans but I do think it is possible people get some social security and some retirement. One might affect the other.

Sen. HEALY: You made the statement a while ago, if I heard you correctly, that these jurists, the district court judges they give up a lot to become judges. They sacrifice in other words to become judges of the district court. Did you say that is correct?

Sen. BRADLEY: I think that is the typical situation, yes. Let me answer that further by saying the man you want for the job, you want to attract to the job, will be required to sacrifice more than the person who might not if the person is going to make more money as a judge then as he did as a full time lawyer, then there is some reason to question how good a judge he would be. Now you can't say that's without exception but I think on the whole that's a fair statement.

Sen. HEALY: In a term of principle I would concur with what you say but can you tell me what district court judge in the State of New Hampshire or even possibly two that didn't make a strong bid for the job.

Sen. BRADLEY: Well, I don't know about that, I would hope that any judge who decides to take it on would take it on gladly and want the job. What I am saying and what this bill speaks to is that lets structure the system so that we continue to attract and given people of my quality who will want to take the job.

Sen. HEALY: I'd like to say baloney to that last statement, but I won't. In my city I know. I will try to put it into a form of a question, when the case of judgeships comes up salary was quite minimum, in fact it wasn't a third of what it is today and these judges that were selected wouldn't you think that the quality and judicial experience and soforth was put upon politics in this particular case in Manchester? Its the biggest city in the state so you must be aware of whats going on in Manchester.

Sen. BRADLEY: I have some idea. I know who the judges are and I don't wish to comment on them in any way by name and I have no reason to question them but I'm not sure I understand what your question is.

Sen. HEALY: My question is quality in the way of judicial actions and performance of duty. Now you mentioned a while ago lawyers give up their jobs, give up good legal salaries to become judges to perform patriotic services, do you think that is true in your heart?

Sen. BRADLEY: I think that has been the case typically in New Hampshire and I hope that we will always have a system which will keep it that way.

Sen. HEALY: In this amendment to **SB 7** I noticed too that a judge that serves at least 10 years shall receive annually for the remainder of his life the amount of 3/4 of his salary and soforth. 10 years of service as a judge should give him the rest

of his life $\frac{3}{4}$ of salary to which he has contributed nothing? Do you think that is good legislation?

Sen. BRADLEY: I think that question ought to be reviewed by the finance committee in light of what the other judges get, in light of what other state employees of comparable status have. The reason why the $\frac{3}{4}$ is in this bill is very simply that's what's in existence for supreme and superior courts and the legislature for whatever its worth made the determination that that was an appropriate kind of retirement in their judgment at that time and perhaps we ought to reconsider that. I'm not saying yes $\frac{3}{4}$ is what it ought to be and nothing else I think it ought to be an attractive and reasonable retirement and if the finance committee in its wisdom thinks that's too high or somehow inappropriate, I would certainly be receptive to proposed changes systemwide.

Sen. HEALY: You mentioned superior court and supreme court. In your thinking we should have the district court level on the same as the supreme court and the superior court in the way of retirement systems?

Sen. BRADLEY: Yes, In the sense I think that their salaries I assume will always be different, that we will pay our supreme court judges more than superior courts, superior court judges more than district courts. But when we start talking about retirement plans they should be treated the same within the system, get the same percentage treatment in relation to what their salary was. But then I think we are talking of framing a retirement plan that should be treated the same, they should get the same sort of percentage treatment in relation to what their salary was.

Sen. HEALY: In this, which I haven't had much of a chance to review, it says something to the effect that in case the widow should succumb or the judge did not have a widow that the children would receive compensation for life. Do you think that is a good measure?

Sen. BRADLEY: I don't believe it says that. I thought this applied to only children under 18 and that once a child reached 18 there would be nothing more. Again, that is what we are presently doing for superior and supreme court judges and I would make the same remark that we thought it was pretty good when we did it. I guess; but let's have a look at the whole system again and that's what the present motion is.

Sen. HEALY: These district court judges that we are discussing here today just what do they do in the way of conduct-

ing a court? Just what kind of cases do they have?

Sen. BRADLEY: Well, the district court the ones we are talking about are full time so they are typically sitting five and a half days a week and long days and often get called after hours for arraignments and search warrants and the like. I am satisfied that the district court judges work very hard. I think that is part of your question. Now, in terms of what cases they have, the district court has jurisdiction over misdemeanors, over felonies deciding whether the person should be held for grand jury and they have jurisdiction over civil matters not exceeding \$3,000 so that they do the same kinds of things as the other judges the supreme and superior court judges except their jurisdiction is limited.

Sen. HEALY: I don't hear you mention traffic cases at all. The City of Manchester the district court judges handle perhaps 75 to 85 traffic cases a day. Do you really think all these taxpayers privileges should be designated and free pensions be given to judges to perform services that could be conducted by any common sense layman?

Sen. BRADLEY: Well you are right that a great bulk of the criminal cases, misdemeanors and violations in the district courts are related to traffic; but I certainly disagree with you that their functions can be performed just as well by any laymen.

Sen. BRADLEY: I made no distinction between classes of citizens. I think there is only one class of citizens.

Sen. HEALY: How can one class of citizens receive compensation naming their wives and children for pensions while 98 or 99% of the rest of the people in the state have to contribute towards their pensions and they receive nothing for their children and so forth?

Sen. BRADLEY: Well, I'll just answer that simply again by saying that I think we ought to have a look at this. I think that it makes sense to put our judges on more or less of a uniform, sensible system and if the finance committee determines that ought to involve some contribution and there isn't justification for noncontribution. I have no problem with that whatsoever.

Sen. HEALY: Do you think this is fair legislation for the people of the cities to pay this pension?

Sen. BRADLEY: Yes I do subject to the things I've said and I decline to answer further questions.

Sen. HEALY: What I want to say is that I want to com-

mend Senator Bossie highly for his recognition even though he is legally and judicially oriented that he comes up and stands up and speaks out for the people. I'm sure if the people of Manchester which I represent and the whole district in that area knew about this bill, I don't think they would like it. I think it is really an insult to the people of Manchester and the taxpayers in particular. It seems to me that the judicial system just like in a burglary case the other day they want to take over everything and its time that the people who are not legally oriented speak out and say something on behalf of their people and residents and the people that are paying the taxes and that's what I intend to do. I'm going to be a nuisance here in the Senate from now on especially on legal cases.

Amendment adopted. Referred to the committee on Finance.

SB 68, relative to notice filing in registries of deeds to show power of trustee to convey real estate. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President this is similar to the bill that was passed a while ago with regards to short form or mortgages. Basically what it does is that it permits one who is going to sell property under a trustee to record the instrument which will put everyone on record and every bona fide purchaser buying as a result or doing a title search on that case would be informed of it and they would have to look no further. Under the present law if one is doing a title search on property that's in trust, one would not be able to complete a proper title search at the registry of deeds and in fact might waste many, many hours trying to find out where the document is. So basically this simplifies it. It's Senator Moniers bill and I understand Judge Pengrey from Goffstown who does quite a bit of title work asked him to do it. I looked over the bill and the committee has and we think it would be appropriate at this time to pass this law.

Adopted. Ordered to a third reading.

SB 55, providing injured employees with an attorney upon the commencement of workmen's compensation proceedings.

Refer to interim study by judiciary committee. Senator Bradley for the committee.

Sen. BRADLEY: This bill if it were adopted would pay a person who is injured and was claiming workmans compensation benefits and who had been denied the benefits, it would provide that he would always get his attorneys fees no matter whether he won or lost anywhere up the line. There may be some reason to be concerned about the difficulties of the field process but the committee basically felt that this would be giving the employee a situation where he would have nothing to lose by continuing to appeal and that would add to the premiums paid on workmens compensation. It was our feeling that we ought to take a further long look at this bill and see if there isn't some way which we could meet the sponsors objectives, perhaps get some further input that the sponsor felt might be forth coming from people working in the area.

Adopted.

SB 26, authorizing state employees' participation in the present incentive award program for selling sweepstakes tickets. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: **SB 26** is basically an incentive bill requested by sweepstakes commissioner Mr. Powers of State employees to sell the sweepstakes tickets at liquor stores and soforth. It gives an incentive for the winning tickets sold at the liquor stores or anywhere by state employees that the state will give \$100, \$200, \$500, \$1,000 and \$100,000 win and this money is divided equally if its sold in the liquor stores among the personnel that are working there at the time that the ticket was sold. There was support by the liquor commission, Mr. Tentus and also the State Employees Association endorsed this bill. I urge the full senate to support the committee report of ought to pass.

Sen. SAGGIOTES: Does this mean that all state employees would be able to participate in this.

Sen. FENNELLY: Yes. It's for the future I guess. There was some question on it just for state employees of liquor stores where the majority of them are sold but the recommendation is for all state employees.

Sen. SAGGIOTES: So at some future date when I'm driv-

ing along the highway and I see some blinking blue lights I may be stopped for either a ticket or the purchase of a sweepstakes ticket?

Sen. FENNELLY: I wouldn't go that far, Senator.

Adopted. Ordered to a third reading.

SB 63, relative to real estate tax lien for the elderly or disabled. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: At the present time the legislation under which elderly or disabled may apply for tax liens is that the application must be received by April 15; but its not clear that it shall be done every year and this bill adds the words "of each year" in which the relief is sought.

Adopted. Ordered to a third reading.

SB 64, relative to homestead rights for mobile home owners. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, under our existing law we have something called the homestead right which applies to a persons home and says basically that home is exempt from attachment. This is exempt from your creditors taking away from you up to the amount of \$2,500. This is apparently unclear whether or not this applies to mobil homeowners who live in mobil homes. In some cases the mobil home may be secured securely enough to the ground that it would be considered real estate and other times it might not be. I gather typically that they are not considered to be real estate therefore the person who lives in a mobie home does not have this same protection that those of us who live in houses that are clearly attached to the real estate have. This bill would simply put people who live in mobile homes on the same basis as the people who live in more securly fastened homes.

Sen. SANBORN: Senator, I have a question perhaps two. This bill now as you described it now makes a mobile home as real property is that what I gather?

Sen. BRADLEY: Well, for the purposes of the homestead exemption. It wouldn't otherwise affect the law on your property. It is just for this one purpose which is the purpose saying \$2,500 of your home is exempt from general creditors.

Sen. SANBORN: In that same vain more or less I see as you say it would be exempt for \$2,500 under the homestead section but as you may realize mobile homes are taxed as real estate under a different formula than a permanent home. Does this put them into the same taxable brackets as a regular home?

Sen. BRADLEY: No this bill would not affect the way mobile homes are now taxed. And it wouldn't effect any other notion of real property as opposed to personal property dealing with mobile homes. It wouldn't effect whether or not they need to be registered as vehicles or recorded as real estate or any of those other laws. All this is doing is affecting one law and thats the law that says that your home is exempt of \$2,500.

Senator Bossie moved that **SB 64** be indefinitely postponed.

Sen. BOSSIE: Mr. President, historically homestead rights and homestead exemptions went with the land. In other words if you had a tent on the land, its the land that is exempt from the attachment. Basically people would use this and they use it now to provide a place for a home for their families. What has happened over the years is that people buy a home and in some cases mobil homes and when they have to go bankrupt their \$2,500 each is exempt. So in this particular case what would happen they would buy a mobile home also known as a trailer. The husband would have \$2,500 exempt because the wife is a joint owner she could get \$2,500 too. How much do mobil homes cost? \$8,000, 9,000 what you got is \$5,000 exempt from any attachment or any levy and the rest of it is attachable. Thats fine. Now when you apply it to a home, a home often costs \$20,000—30—40—50 and up. The percentage we are going to allow these people to be exempt is considerably higher than that which would be applied to regular homeowners. After all a mobile home is the type of thing that if they don't pay their rent, they pick it up and bring it some place else. I think this is just a bad law. I suspect that this is another case where New Hampshire Legal Assistance, who is doing a very fine job, is presenting a bill of this nature to prevent creditors from properly trying to cover what is due to them. I am in support of poor people and I must admit, I don't have one mobile home in my senate district and I'm the only senator who does not. It probably wouldn't have any affect on

me or the way my constituents would interpret it. I just feel that what is right is right. This should be applied to the land and not the person. There is another bill that's coming in and my good friend from Concord senator is supporting this too. It's a bill to exempt the first \$2,000 of an automobile from levying an attachment. I oppose that too. I think that after a while if we are going to do things of this nature then people who extend credit are just not going to permit poor people or low income people to buy anything on credit because they are just going to say hey we have no teeth in the law to allow us to collect. I don't think you are doing the poor people and the low income people any favors by passing a bill of this nature. So I ask you to vote with me to kill this bill.

Sen. BRADLEY: Senator Bossie, isn't it correct under the existing law that if you give a mortgage on your homestead that the mortgage will supersede the homestead right?

Sen. BOSSIE: And if you also note reading that statute senator that is the only thing. That is the only thing that supercedes it. The mortgage.

Sen. BRADLEY: So that if we say under this bill that mobile homes are going to be treated as real estate it would therefore be possible for the person selling the mobile home to take back a mortgage on it which would supercede the homestead right, so isn't it correct that your statement was not correct that the seller of this would not be able to go after the mobile home?

Sen. BOSSIE: What would happen is this, you try to attach something of this nature that is a problem. First of all you claim your exemption and frankly its going to be a waste of time, too expensive for the plaintiffs lawyer to proceed against it that you are just going to allow another dead beat to go lose.

Sen. BRADLEY: If I buy something which all of you would recognize as a mobile home, take it to my property where I have made ready for it, a cellar hole, a bricked up foundation and I put that mobile home on there attach it down securly to the foundation and perhaps add a wing on as well, attach the mobile home to that wing which is of ordinary construction, probably that mobile home would be considered real estate under the law. Isn't that right?

Sen. BOSSIE: It probably would.

Sen. BRADLEY: In which case that person living in that kind of mobile home would have a homestead right already.

Sen. BOSSIE: Right. On this bill you don't have to own the land that goes with that little wagon that can be picked up and dragged all over town.

Sen. HANCOCK: Mr. President, I'm sorry to say I don't have a figure on how many mobile homes there are in the State of New Hampshire but there are a great many. I think for the most part they are out of the class by the word trailer and Senator Bossie perhaps intended to apply they were not what might be termed first class citizens. Indeed mobile homes have become necessary as a form of residence for young people and for older people both at a time of life when there are a minimum of children in the family. In the City of Concord I know we have very fine mobile home parks that exercise excellent controls and which provide a place to live for people of substantial means as well as middle income means as well as low income means. In any case it does provide a type of shelter, a home, a residence in which I think the owner thereof is entitled to a homestead right and entitled to the same privileges as a frame structure owner, namely \$2,500 worth of that edifice in case is taken by creditors. That's all we are asking that if there is a circumstance under which the home must be taken that the owner of a mobile home be accorded the same right as that of a frame structure.

Sen. TROWBRIDGE: Senator Bossie, you've been your usual eloquent self and I was almost persuaded with your eloquence; but my question is don't you feel that your concern about the creditors not giving credit to people because they live in a mobile home because if Senator Hancock's bill passes don't you find at least in your district that the credit establishments of this state are doing everything in their power to push television sets and everything onto the market that the problem is not one of having them hold back, the problem is that they don't hold back as a result their losses that they take the deadbeats get added to the price that all of us pay for the television set that's marked up to cover that thing. Do you have any evidence that truly the credit institutions of this state are going to care an iota about the homestead rights of someone living in a mobile home?

Sen. BOSSIE: Let me say this Senator, I have no compassion for the finance companies in this state. However, it remains to be seen that low income people have a very limited source by which they can receive a loan finance companies are

generally it. They charge the highest rates of course. But on a bill of this nature what are you doing for all the tenets? My district consists mostly of a three or four tenement building. What are we exempting for them? Nothing. What we are doing is we are saying that people who live in mobile homes are not middle class citizens. The fact remains that what we are doing is saying o.k. because you live in a mobile home we are going to treat you better. You're better than the average citizen because a greater proportion of your property will be exempt from attachment and levy on execution if you live in a mobile home than if you live in a regular piece of real estate or if you are a renter. If you are a renter they can roll in the truck and grab that television set. The fact remains that has nothing to do with it. What you are saying is make it tighter for these people. We had a bill similar to this and I guess it was in the banking committee and what we are going to do, we are eventually going to make credit unavailable to the lower income people. We don't want to do that. They have a hard enough time paying the interest now. In the end I disagree with you about it. I think this really is not a proper step.

Sen. TROWBRIDGE: If you are worrying about equity senator, why don't you file a bill for the person who is a tenent and have him have his \$2500 if that's what you are talking about.

Sen. BOSSIE: \$2500 in what? A t.v.? A used couch that is worth \$50? There is nothing Senator, and this is a way to hide their assets. \$2500 for you and \$2500 for mother and thats what it is going to be used for.

Sen. SANBORN: Senator, relative to what you just mentioned to Senator Trowbridge and along the lines of the previous questions with Senator Bradley. The depreciation on a mobile home isn't the same as it is on a frame house?

Sen. BOSSIE: Well, from what I know of real estate houses that are on a foundation usually appreciate. Mobile homes depreciate because of the structure. Of course, anyone who buys a mobile home after 10 years is going to have something that is worth substantially less than if he had invested that same amount in a regular framed home.

Sen. SANBORN: Senator, the last time that I had much to do with mobile home rough rule of the thumb was something in the vacinity of value of \$100 a foot. I think its a little higher than that now in the area of \$150 a foot. If you bought a mobile

home of 55 feet long, but if I bought one 10 years ago for say \$6000 what would you think would be the value placed on it right now?

Sen. BOSSIE: First of all if this bill passes and if its owned by the individual and his spouse, \$5000 exempt and so you'd have \$1000 to play with and I'm sure it wouldn't be there. So to you thats a free game so you can go out and keep buying T.V. sets and everything else from that finance company.

Sen. SANBORN: Look at the depreciation, if I bought that say 10 years ago what would be the value, about three to four thousand dollars right now?

Sen. BOSSIE: Yes. I think that would be very fair.

Sen. DOWNING: Mr. President, I rise in opposition to the pending motion offered by Senator Bossie and favor the committee report. I would advise the senate that the Ways and Means Committee had some reservation about the bill only to the extent whether it should probably have gone to Judiciary rather than Ways and Means. But we are fortunate in having the Chairman of the Judiciary Committee also sit on the Ways and Means Committee and it was mutually agreed that we could handle it. We had the hearing. There was no opposition to the bill whatsoever. There was only support for it. There was no opposition on the Ways and Means Committee itself for the bill. Its a subject that should be addressed and this was the vehicle to do it by. The permanency of an indefinite postponement I hope would be totally unacceptable to the Senate. I urge you reject the pending motion and support the committee report.

Sen. LAMONTAGNE: What happens in the case like a city having a lot of these mobile homes and of course some of these mobile homes are not worth more than possibly \$4000 and therefore a city or town takes over the property for taxes what happens in that case?

Sen. BOSSIE: I believe that under the statute the city has a right to levy for taxes. They have a priority. Passed or not, they could get their taxes anyway. Just like in your house, they come first and you come second.

Sen. LAMONTAGNE: Then you wouldn't have to reimburse them in anyway.

Sen. BOSSIE: No.

Sen. BRADLEY: I'd just like to rise briefly to say that there is an old ancient concept which I think we ought to keep in mind and that is that a man's home is his castle whether it

may be a framed house or a mobile home. We will have occasion this session to look at this motion of exemptions from attachments in another bill we will be getting as Senator Bossie mentioned. Looking at this old law which is clearly out of date, has a certain real flavor to it which I think has a lot of validity and if you read down through this list of things which have been for more than a hundred years exempt from attachment and execution you get a certain notion of what our forefathers if you will were getting after which it seems to me is still valid. That your wearing apparel are exempt and a comfortable bed for the debtor, wife and children you couldn't take that away. Couldn't take away household furniture to the value of \$1000. That's not much furniture. Couldn't take away one cooking stove and the necessary furniture belonging to the same. One sewing machine, provisions and fuel to the value of \$200 are not going to get you very far through the winter. The uniform arms and equipment of every officer and private in the militia and I say it's a little out of date but you get the flavor. The bible school books and library of any debtor used by him and his family to the value of \$400. Tools of his occupation to the value of \$600 one hog and one pig and the pork of the same when slaughtered. Six sheep and fleece of the same. One cow and horse when required for farming or teaming purposes or other actual use and hay not exceeding four tons. Domestic fowls not exceeding \$150 in value, the debtors interest in one pew in any meeting house in which he or his family usually worship and this homestead right in real estate. If you think of that law in the context of the time when it was passed you can understand the notion that you are going to leave the debtor no matter how foolish he may have been, no matter what kind of a spendthrift he may have been or whatever you are going to leave him and his family enough to survive on, enough to live on and perhaps to try to build himself up again. You were not going to strip him down to nothing. Just as we have a bill coming in we ought to change the notion of the horse to the automobile I suggest to you that we ought to update this thing to make mobile homes which have become so popular which were never heard of in the time this law was passed, we ought to modernize and update this thing by including mobile homes in the same spirit of this law.

Sen. BOSSIE: Senator would you enlighten me and the senate further as to what you just read off about the poor hogs. Isn't it true when this statute was passed when these were

permitted as exemptions that there was such a thing in those days as debtors prison where the deadbeats would go to jail and physically would be taken off if they didn't pay their debts. Isn't that true?

Sen. BRADLEY: That may well be but you'd still leave the mans home and children you wouldn't put his wife and children in the debtors prison with him.

Senator Blaisdell moved the previous question.

Adopted.

Senator Hancock requested a roll call.

Senator Saggiotes seconded the motion.

The following Senators voted yes: Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie.

The following Senators voted no: Lamontagne, Poulsen, Gardner, Bradley, Bergeron, Saggiotes, Blaisdell, Trowbridge, Keeney, Hancock, Fennelly, Downing, Preston, Foley.

7 yeas 14 nays

Motion failed.

Adopted. Ordered to a third reading.

SB 73, permitting members of the New Hampshire Fair Association to hold on-sale permits. Ought to pass. Senator Bergeron for the Committee.

Sen. BERGERON: Mr. President, this bill simply authorizes the liquor commission to issue an on-sale beverage permit to any member of the N.H. Fair Association. This in effect very simply allows various fair associations with the state which there are some 13 or so to have an on-ground permit for the sale of beer. At the present these fairs are given on-sale permits with the proviso that they have to have a restaurant. This would eliminate that and also they have to buy

their restaurant permit which is an expensive permit. This way they can get a seasonal. Several people were there testifying at the hearing and there was no opposition.

Ordered to a third reading.

SB 79, increasing the permissible amount of assets under the elderly exemption and expanded elderly exemption law. Ought to pass with amendment. Senator Downing for the committee.

Amendment to **SB 79**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

increasing the permissible amount of assets under the expanded elderly exemption law.

Amend the bill by striking out section 1 and renumbering sections 2 through 5 to read as

1, 2, 3, 4 respectively.

Sen. DOWNING: Mr. President, the amendment is on page 7 of today's calendar and the bill as originally drafted dealt with the elderly exemption as well as the expanded elderly exemption. The amendment clarifies the intent of the legislation. It eliminates the elderly exemption and addresses itself solely to the optional expanded elderly exemption. This would require any community to put it to a referendum vote to the people in that community. There are about 50 communities in this state which operate under the expanded elderly exemption. They voted individually to do so. They can stay that way if they want. If they want to increase the exemption from 35 to 50 thousand assets then they can hold another referendum to do so. If they don't they can say leave it as it is. If they put the referendum to the people and they reject it, it will stay the way it is at 35 thousand. I urge you to support the committee report.

Sen. POULSEN: Senator, is there a house bill that has the

same material almost exactly like this or am I making a mistake?

Sen. DOWNING: Senator, as best as I can make out, there is a house bill that applies to the elderly exemption, the basic elderly exemption which is mandatory throughout the state and no local option attached to it. This bill deals specifically with the expanded exemption and it has a local option provision. So it would have to be adopted by referendum. We have a basic elderly exemption that at age 68 certain income and asset levels entitle you to a \$5000 dollar exemption. That applies everywhere in the state regardless of whether an individual community wanted it or not. Then two years ago we passed a law which had an expanded exemption to increase the asset and income level and it also put in a graduated exemption based on age and it lowered the basic age from 68 to 65 but that had to be adopted by referendum in any community wanting to do it. This deals strictly with that statute and it says that if you recognize the need to increase the asset level then you vote for it if you don't, you wouldn't vote for it. Nothing to change, but the home rule situation, it's up to the local community to make its own decision.

Sen. POULSEN: As I read quickly I thought the house bill did exactly the same thing.

Sen. DOWNING: It wasn't my understanding that it did. There are a number of bills in the house dealing with the elderly exemption area. There was one that would exempt the home from being counted as an asset for example. I don't think there is a bill in the House that does exactly what this bill does the way that it does it.

Amendment adopted. Ordered to a third reading.

HB 84, relative to temporary loans issued under the municipal finance act. Senator Poulsen for the Committee.

Senator Poulsen moved that HB 54 be recommitted.

Adopted.

(Sen. Saggiotes in the chair.)

Senator Jacobson spoke under Rule No. 44.

Recently there has been statewide discussion about the problem of the state budget and the funding of sufficient revenue to balance it. The Governor has had one view and the Fiscal leadership of the Senate has had another. I am sure that every member of the Senate has his or her view as well. Unfortunately, this discussion has overshadowed other important issues which may or may not be related to the budget question. There are of course, many prophecies voiced concerning it, all of which tend to take us away from other essential responsibilities of the Legislature. It may appear ironic that I should want to propose that we discuss serious revisions in the present structure in state government at this time, but from my perspective at least, this may be the best time to discuss important changes in what has been the pattern of state government to date. After all, times of crises may also be the right time to undergo major surgery. That is what happened when our forefathers formed our constitutional frame of government in 1787.

I believe we ought to review our whole public education system as we presently practice it in New Hampshire. I recognize that a great mythology has developed which says that only when we have local control do we have good schools. The actual facts are that effective local control is only minimally possible even under present policy. Moreover, the hard truth is that the present system is more costly than it should be. We have 47 supervisory districts in New Hampshire which operate at a cost of \$5,403,424. The entire system is archaic. The Peterson Task Force recommendation of 1969 sought to reduce the number of supervisory unions to five. To date, nothing has been done. I believe that we should consider a statewide school system without supervisory unions and that present regional high school principals act as the principal executive official in the school districts. Mr proposal would be that this statewide system be paid for by a per pupil assessment from the cities and towns, reduced by the amount of state financing available. This would seem to be the most equitable way to handle such a system regardless of what the state revenue picture may be now or in the future. If there be significant growth in revenue through legislative action, local costs would go down, but no matter how it be financed, the overall savings would be considerable.

Furthermore, the General Court should consider establishing some means of evaluating the teaching performance of our

public school system. There should be developed a statewide testing program in the fields of mathematics, basic science, English, and American and New Hampshire History. These courses are fundamental to a sound secondary education, whatever may be the course direction, be it more college type courses in History and literature, or more technical courses. The Legislature ought to know how well our schools do the job, for our constitution gives the General Court basic oversight of educational policy.

I propose a 15 member State Board of Education, consisting of 3 members, so that public input be continued on a representative form, appointed by the Governor and 12 members elected by the people, be established. Because of the critical importance of public education, as well as its cost, it would seem reasonable to have a widely represented board through election.

Finally, in the area of public education, I believe the time has come to give serious consideration to allowing the University of New Hampshire at Durham to become a private university. This suggestion, of course, is not original with me. It has been discussed on and off the campus at various times. This would allow the university, now solidly founded, to expand in its own direction and to enjoy many liberties that it does not presently enjoy. Should it happen as I see it, the state would in fact provide a subsidy payment to any New Hampshire student who gained admission so that as far as our students at Durham are concerned, there would be no significant change in cost, and if a sliding scale of support based on income is adopted, a number of our students would pay less than they do now. The vehicle for this would be a statewide school fund of several million dollars that would be available to graduates of New Hampshire high schools. What would be possible under this plan is a greater freedom of choice for the student and greater liberty for the university to develop in its own direction.

The other major concern is radical change within the Judicial system. Our present system is a patchwork, intermingled with small empires overlapping in a system similar to medieval feudalism, with its fiefs, fealty and homage. The most recent report has as its most major thrust a reinforcement of this pattern by quantitatively enlarging it. The people of New Hampshire have suffered long enough under the pre-

sent judicial process. Delays in implementing the constitutional imperative of Part I, Article 14 can no longer be tolerated. We need change.

I propose that we establish a statewide court system under the management of a Board of Judiciary, consisting of 3 members appointed by the Governor, 2 members appointed by the President of the Senate, and 2 members appointed by the Speaker of the House. This Board of Judiciary would have overall responsibility for the management and administration of the judicial system. The Board would appoint an executive administrator and such other assistance as may be required. It would have the authority to set up a system of court fees. All fines exacted by the system would remain under the control of the Judiciary Board. The Board would have under its executive administration the responsibility of seeing that the judges and courts be utilized in the most effective manner in the pursuit of fair and speedy justice. This would free the judges to devote their entire time to judge without any interference from the judicial board and further relieve them of all administrative duties. The statewide system would be paid for by a per capita assessment on each city and town, reduced by any other income and any state appropriation.

Serious consideration should be given to concluding the functions of county government. This form of government was important in New Hampshire when there were minimal forms of communication and transportation. Such conditions do not exist today. I believe that any unbiased appraisal of county government would come to the same conclusion. The judicial functions of the county, I have already spoken to. The health and welfare functions presently within counties would come under the State Health and Welfare Department and the corresponding agencies in the towns and cities. Other county institutions would come under the appropriate state agencies.

I believe that if the aforementioned recommendations were adopted, the actual cost of all government in New Hampshire would be less by several million than what it is now. It would be a more effective government in terms of its services to people. It would be a more manageable government. It would be the kind of government where people would be able to know more accurately where their tax dollars are going. Finally, this system of government is possible under the present revenue formulas and it would be equally possible under any fundamental changes in the revenue pattern. The real ques-

tion is whether this General Court has the courage to come to grips with needed change. I claim no clairvoyance about ultimate solutions, but I do stand on the belief that we must open these.

FURTHER HOUSE MESSAGE
HOUSE CONCURS

SB 28, An act establishing the Lamson Farm Commission in Mont Vernon.

Senator Trowbridge offered a budget analysis.

TABLE I - Fiscal 1977

	Senate Finance Analysis 2/10/77	Governor's Recommended	Difference
1. Starting surplus beginning of year	6,810,684	6,810,684	-0-
2. Revenues:			
3. Unrestricted	157,575,000	157,631,609	56,609
4. Revenue Sharing	7,378,049	7,378,049	-0-
5. Total Revenues	164,953,049	165,009,658	56,609
6. Less Workmans Comp., etc.	639,621	639,621	-0-
7. Net Revenues	164,313,428	164,370,037	56,609
8. Total Funds Available (add line 1 and 7)	171,124,112	171,180,721	56,609
Deduct:			
9. Debt Service	6,040,793	6,040,793	
10. Reimbursements to local govnt.	24,358,150	24,358,150	
11. Accrued liability	24,358,150	24,358,150	
12. Normal contribution	1,565,458	1,565,458	
13. Parks - debt service	757,319	757,319	

14.	Water Pollution - state aid grants	3,853,392	3,853,392	
15.	Grants to community mental health ctrs.	3,406,548	3,406,548	
16.	Post secondary Ed. Comm., Incentive Program	187,306,548		
16.	Post secondary Ed. Comm., Incentive Program	187,396	187,396	
17.	Education - Foundation Aid	3,871,268	3,871,268	
18.	Education - Building Aid	5,343,662	5,343,662	
19.	Education - School Lunch	400,881	400,881	
20.	Education Handicapped tuition payment	771,750	771,750	
21.	Education Handicapped - local school districts	496,125	496,125	
22.	Salaries	52,201,805	52,201,805	
23.	Benefits	6,800,265	6,890,265	
24.	Operating expenses	69,809,566	69,809,566	
n			TTTTTTTTTTTT	
25.	Total Deductions	181,264,212	181,264,212	
n				
26.	Less Lapses	8,623,002	9,670,039	1,047,037
27.	Net Deductions	172,641,210	171,594,173	1,047,037
28.	(Deficit) line 8 minus line 27	(1,517,098)	(413,452)	1,103,646
n				

TABLE II - Fiscal 1978

	Senate Finance Analysis 2/10/77	Governor's Recommended	Difference
1. Starting (deficit) beginning of year	(1,517,098	(413,452)	1,103,646
2. Revenues:			
3. Unrestricted	165,765,000	167,788,337	2,023,337
4. Revenue Sharing	7,288,107	7,288,107	-0-
5. Total Revenues	173,053,107	175,076,444	2,023,337
6. Less Workmans Comp., etc.	824,621	824,621	-0-
7. Revenues	172,228,486	174,251,823	2,023,337
8. Total Funds Available (add line 1 and 7)	170,711,388	173,838,371	3,126,983
Deduct:			
8a. Retirement - 1977 deferral normal contributions	978,581	-0-	(978,581)
8b. 27th pay period, benefits and FY 78 increments	3,613,950		
8b.27th pay period, benefits and FY 78 increments	3,613,950	3,613,950	-0-
9. Debt Service	7,400,000	7,400,000	-0-
10.1 Reimbursements			
10.1 Reimbursements			

11.	Accrued liability	1,232,020	1,368,911	136,891
12.	Normal contribution	3,757,523	4,175,025	417,502
13.	Parks - debt service	703,600	703,600	-0-
14.	Water Pollution - state aid grants	6,364,938	5,702,027	(662,911)
15.	Grants to community mental health ctrs.	4,524,700	3,595,000	(929,700)
16.	Post secondary Ed. Comm., Incentive Program	423,965	250,000	(173,965)
17.	Education - Foundation Aid	3,871,268	3,871,268	-0-
18.	Education Building Aid	5,481,244	5,476,515	(4,729)
19.	Education School Lunch	552,655	497,690	(54,965)
20.	Education Handicapped tuition payment	895,925	772,000	(123,925)
21.	Education Handicapped Local school districts	545,732	497,000	-0-
22.	Salaries	52,201,805	52,201,805	-0-
23.	Benefits	6,890,268	6,890,268	-0-
24.	Operating expenses	73,998,140	69,948,434	(4,049,706)
24a.	Indirect Costs - Gross value adjustments	2,400,000	1,600,000	(800,000)
<hr/>				
25.	Total Deductions	201,412,339	192,921,643	(8,490,696)
n				
26.	Less Lapses	5,000,000	5,787,649	787,649
<hr/>				
27.	Net Deductions	196,412,339	187,133,994	(9,278,345)
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TABLE III - Fiscal 1979

	Senate Finance Analysis 2/10/77	Governor's Recommended	Difference
1. Starting (deficit) beginning of year	(25,700,951)	(13,295,623)	12,405,328
2. Revenues:			
3. Unrestricted	170,420,000	172,562,319	2,142,319
4. Revenue Sharing	7,341,696	7,341,696	-0-
5. Total Revenues	177,761,696	179,904,015	2,142,319
6. Less Workmans Comp., etc.	1,009,621	1,009,621	-0-
7. Net Revenues	176,752,075	178,894,394	2,142,319
8. Total Funds Available (add line 1 and 7)	151,051,124	165,598,771	14,547,647
Deduct:			
9. Debt Service	9,100,000	9,100,000	-0-
10. Reimbursements to local govnt.	26,854,825	24,358,150	(2,496,675)
11. Accrued liability	1,232,020	1,368,911	136,891
12. Normal contribution	4,133,275	4,092,528	(40,747)
13. Parks - debt service	685,450	685,450	-0-
14. Water Pollution - state aid grants	5,580,110	5,702,027	121,911

15.	Grants to community mental health ctrs.	5,067,500	3,700,000	(1,367,500)
16.	Post secondary Ed. Comm., Incentive Program	592,990	250,000	-0-
17.	Education Foundation Aid	4,335,820	4,335,820	-0-
18.	Education Build Aid	5,580,281	5,247,052	(333,229)
19.	Education School Lunch	606,069	545,791	(60,278)
20.	Education Handicapped Tuition payment	926,100	772,000	(154,100)
21.	Education Handicapped - Local School districts	595,345	497,000	(98,345)
22.	Salaries	53,395,976	53,395,967	-0-
23.	Benefits	8,009,404	8,009,404	-0-
24.	Operating expenses	78,438,028	73,911,294	(4,526,734)
24a.	Indirect Costs - Gross value adjustments	2,400,000	1,600,000	(800,000)
25.	Total Deductions	207,533,190	197,571,394	(9,961,796)
n				
26.	Less Lapses	5,000,000	5,927,141	927,141
27.	Net Deductions	202,533,100	191,644,253	(10,888,937)
28.	(Deficit)	(51,482,066)	(26,045,482)	25,436,584
n				

TABLE IV
Governor's Recommendations for
Cost Reductions and Additional Revenue

	Fiscal 1978	Fiscal 1979	Biennium
Estimated Deficit 6-30-79			(26,045,482)
Requires Legislative Action:			
Amend Workman's Comp Law	600,000	750,000	1,350,000
Personnel Reductions	3,000,000	4,000,000	7,000,000
Assess Insurance Co's cost of Insurance Commission	488,000	471,000	959,000
Liquor Store Sunday Opening(Net)		858,000	858,000
Real Estate Transfer Tax Increase	400,000	400,000	800,000
Interest and Dividends Increase	700,000	700,000	1,400,000
BC-BS 2% Premium Tax	1,500,000	1,500,000	3,000,000
Wine Sales in Grocery Stores	1,000,000	1,000,000	2,000,000
Fee and License Insurance	800,000	800,000	1,600,000
Horse Racing Multiple Wagering*	950,000	950,000	1,900,000
Eliminate Discoun M&R Tax	300,000	300,000	600,000
Meals and Rooms 1% Tax increase	3,590,000	3,950,000	7,540,000

Requires Governor and Council Action:			
Sale of Surplus State Property	500,000		500,000
Requires Budget Action:			
Lapse Legislative Balance Forward	300,000		300,000
	14,986,000	15,679,000	30,665,000
Available Balance 6-30-79			4,619,518

* Recommend changes in the law to increase the Commission in multiple type wagering which will yield additional revenue.

TABLE V

SUMMARY OF ACTIONS RECOMMENDED
By the Governor

Summary - Fiscal 1977 - Table I

Increased revenues by	\$ 56,609	
Increased lapses by	1,047,037	
		<hr/>
Net Decrease		\$ 1,103,646

Summary - Fiscal 1978 - Table II

Increased revenues by	\$2,023,337	
Increased lapses by	787,649	
Decreased expenditures by	8,490,696	
		<hr/>
Net Decrease		\$11,301,682

Summary - Fiscal 1979 - Table III

Increased revenues	\$2,142,319	
Reduced expenditures	\$9,961,796	
Increased lapses	927,141	
		<hr/>
Net Decrease		\$13,031,256

Biennial Difference between
Senate Finance Analysis and
Governor's recommended budget

\$25,436,584

Governor's Recommended Budget
before revenue proposal

\$26,045,482

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Total Summary of Governor's Actions

\$51,482,066

ENROLLED BILLS REPORT

SB 28, establishing the Lamson Farm commission in Mont Vernon.

HB 453, relative to serial notes issued by the town of Bedford.

Senator Lamontagne for the committee.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, March 9 at 3:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 116, relative to the taxation procedure in village districts.

HB 65, relative to the procedure for discharge from employment of the superintendent of the county farm.

HB 61, providing for payment of a claim to Cpl./Tech. Henry P. Paris, Jr., New Hampshire state police and making an appropriation therefor.

HB 74, reimbursing the North Conway fire department for search and rescue operations and making an appropriation therefor.

SB 68, relative to notice filing in registries of deeds to show power of trustee to convey real estate.

SB 26, authorizing state employees' participation in the present incentive award program for selling sweepstakes tickets.

SB 63, relative to real estate tax lien for the elderly or disabled.

SB 64, relative to homestead rights for mobile home owners.

SB 73, permitting members of the New Hampshire Fair Association to hold on-sale permits.

SB 79, increasing the permissible amount of assets under the expanded elderly exemption law.

Adopted.

Senator Gardner moved to adjourn at 4:15 p.m.

Adopted.

Wednesday, March 9

The Senate met at 3:00 p.m.

A quorum was present.

(Sen. Saggiotes in the chair)

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let us strive to grow in grace during this period of lent. May we be aware of the lessons taught which shall make our own lives richer through our close association with the Lord.

May He bless us and show us through the example of His life those things which we ought to do.

Let us give thanks unto Him, now for these benefits.

Amen

Senator Preston led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

First and Second Reading and Referral

SB 100, relative to removing, defacing, altering, changing, destroying, obliterating or mutilating identifying numbers of machines or electrical or mechanical devices. (Smith of Dist. 3—To Judiciary)

HOUSE MESSAGES

HOUSE CONCURS IN SENATE AMENDMENT

HB 47, establishing a fourth New Hampshire song and providing for the designation of an official New Hampshire song.

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 238, 16, 101, 234, 290, 259, 297, 148, 23 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 238, relative to the investment powers of savings banks. To Banks.

HB 16, authorizing out of state municipalities to participate in district fire mutual aid system. To Interstate Cooperations.

HB 101, enabling towns to join together for the purpose of watershed management. To Executive Departments.

HB 234, allowing the holder of motorcycle learner's permit to drive a motorcycle to and from a licensing examination. To Transportation.

HB 290, relative to increasing the insurance requirements of motor vehicle drivers' schools. To Insurance.

HB 259, establishing the ladybug as the state insect of New Hampshire. To Environment.

HB 297, limiting the powers and duties of the department of revenue administration to overseeing the collection of state taxes administered by said department. To Ways and Means.

HB 148, relative to recording all changes in ownership of real property with the registry of deeds. To Judiciary.

HB 23, requiring the filing of a detailed plan with the town clerk of the proposed project to excavate, fill or dredge. To Environment.

ENROLLED BILLS REPORT

HB 47, establishing a fourth New Hampshire song and providing for the designation of an official New Hampshire song.

HB 61, providing for payment of a claim to Cpl./ Tech. Henry P. Paris, Jr., New Hampshire state police and making an appropriation therefor.

HB 65, relative to the procedure for discharge from em-

ployment of the superintendent of the county farm.

HB 74, reimbursing the North Conway fire department for search and rescue operations and making an appropriation therefor.

HB 116, relative to the taxation procedure in village districts.

Senator Lamontagne for the committee.

COMMITTEE REPORTS

SB 22, relative to food and nutrition programs. Ought to pass with amendment. Senator Sanborn for the committee.

(Sen. Bossie in the chair)

Sen. SANBORN: The amendment proposed to **SB 22** will be found on page 4 of the calendar. Basically what this bill does as amended is just as the amendment states that any school district which has a total fall enrollment of less than 75 students attending school within the district and which votes to discontinue a meals program shall be exempt from the provisions of paragraph I of the law. This states that it's got to be done each year by that school district. On examination and so forth and this by the way I should say is approved by the Commissioner of Education and I would like to state at this time that the following schools would be affected by the bill: The district of Bath, Croydon, Freedom, Grantham, Harrisville, Hill, Jackson, Randolph, Madison, Milan, Errol, Nelson, Newcastle, Newington, Peidmont, Stark, Stoodard, Warren, Washington and Waterville Valley. The actual enrollment of pupils as of 1976-77 runs from 16 to 65 so it actually doesn't effect too many schools. It does give the school the right that they don't have now to say we have only 16 in our school and our nutrition program is good enough in the various homes in the little town of Waterville Valley so we don't need to be forced into a program where we have got to have kitchen equipment, sanitary equipment, etc. That's the basic idea of the entire bill as amended.

Sen. SAGGIOTES: I was not present at the executive session when action was taken on this bill. It was my understanding after talking informally with the committee after the hearing that if such action were taken by school districts then we would have them seek the approval of the State Board of

Education. In other words this is what type of amendment we were talking about coming out of committee. As I read the amendment if a school district takes such action and votes not to comply with the present law it won't go before the State Board of Education.

Sen. SANBORN: That is basically correct Senator. We had unofficial discussions on this bill after the hearing; but didn't go into executive session because as you remember at that time Dr. Bunnell said he would be coming to us with perhaps a suggested amendment and after looking over his amendment in executive session the committee favored the idea because it does not compel any town to get out of the nutrition program. It does give them a chance of relief within that district and the local rule level and it does say that each one of these districts that vote not to have it this year have then got to vote again next if they want to eliminate it for a second year. Its got to be before the people each year so they realize they can have it or they can dispense with it.

Sen. SAGGIOTES: Senator why did you chose the figure of 75 or less?

Sen. SANBORN: Dr. Bunnells suggestion was to go to 100 and only added two more schools but we felt that 100 was going a little strong so the committee settled it at 75.

Sen. PRESTON: What schools are affected with the exception of two schools?

Sen. SANBORN: That list that I just read would be eligible if they so voted in their district meeting.

Sen. SAGGIOTES: Mr. President, at the public hearing that was held on this bill there were probably 30 people who came in and testified very strongly in opposition to the bill. Most of the witnesses were several people who would be affected by the present amendment as offered by the committee. I oppose the amendment as it stands. I'd hope that the committee would find it feasible to recommit the bill so that we can take care of the problem that I have and that is if the school district meeting in heated debate and with feelings running wild and personalities involved could at a regular meeting do away with this food nutrition program which I think is vital to any school district whether they have 1,000 kids or 10 kids, and I think if we are hasty on this I think we will be depriving kids who really need this program. I would like to see the committee consider the amendment that I talked about and that is if the district decides to vote on such a proposal it

should be approved by the Department of Education. I think there should be some type of overview as far as this is concerned.

Sen. SANBORN: Senator, was it not true that in the hearing we received information that the way the laws and rules stand now on nutrition programs that every school in the State of New Hampshire including Waterville Valley with 16 and Jackson with 16 would be compelled to go into the nutrition program, they have got to do that by 1979. Is that not true?

Sen. SAGGIOTES: Not with this bill Senator.

Sen. SANBORN: I didn't question this bill. My question was that present laws and regulations state that they have to be in the program by 1979 unless this bill does pass.

Sen. SAGGIOTES: This law that you speak of has been on the books I believe almost four years, as member of the House at the time when the legislature committed itself to such a program so that every youngster does get some type of lunch-on program whether it be a hot meal or a box lunch, what you are asking to do now is to go back on that commitment and go a step backwards.

Sen. SANBORN: Senator, I don't see it as exactly a step backward but the way this amendment does read is it says that the school district may eliminate any program that is going on now and that any school district must vote on it each year?

Sen. SAGGIOTES: Yes it does and that was exactly the point that I stated before. You can get a stacked meeting at any town meeting or school district meeting and somebody can sell a bill of goods to the public there which is generally a small percentage of the total population. They can get through most anything they want and the next day wake up and be sorry for their actions.

Sen. SANBORN: In other words, Senator you are informing me that Jackson with 16 kids which probably represents about 8 families in the town of Jackson perhaps 10 don't have intelligence enough to see that the kids in those 9 or 10 families have good nutritious food in a small town like that, and we here in the state have to tell them how to eat.

Sen. SAGGIOTES: I'm not saying that Senator. What I am saying is that at a moment of not thinking or being swayed by some emotional fact or issue can go the other way and vote out their program and it would be out for a year and those 10 children or 5 children will be without a nutrition program.

Sen. SANBORN: In other words, we here know better than they do back there?

Sen. SAGGIOTES: Senator, at times maybe we do and maybe they know better.

Sen. SMITH: I rise in support of the bill as it is amended. What Senator Saggiotes has said is true, we did consider an amendment which would allow the State Board to approve yes or no whether a town should be able to have the lunch program. I think the committees view after discussing it and thinking about it for a period of time, was that this sets up administrative procedure which may be inequitable to have the State Board of Education determine what is a hardship case. We felt that in fact this amendment would effect fewer school districts than the other amendment and that actually under this proposed amendment there are about 15 or 16 school districts which would be effected in very small towns where we felt it might be a hardship or difficulty to have such a lunch program in existence. Now the safeguard to this which you talked about the possibility of a school meeting getting a little hot and people up in arms, killing the hot lunch program is possible. It could happen. I don't think it would happen in a school district. I think what would happen and if it did happen it is mandatory under this law that the article be back in the warrant next year and every year until the town does adopt a lunch program. So I think there are safeguards there and as I have indicated and Senator Sanborn has indicated, it's limited to a number of very small towns.

Sen. SAGGIOTES: How many witnessess testified in favor of this bill?

Sen. SMITH: I don't recall off hand but there were probably four or five people. Mostly the sponsor and several school board members.

Sen. SAGGIOTES: Would you say that I was correct when I stated there were about 30 or so that testified in opposition to it?

Sen. SMITH: I would say that there were probably 15 or 20 people who testified in opposition. Most of them people who were running hot lunch programs.

Sen. SAGGIOTES: Don't you agree with me that we are a little inconsistent here? Why have a limit at all? If its good for one district, why not have it for all?

Sen. SMITH: I think it was brought out by some of the opponents of the bill that in a very small school district it

might be very difficult to have a program of this nature. Now from what I can see of the towns that are on the list I would anticipate not more than three or four of those towns wanting to drop the lunch program. It was brought out in one town that they had to take or were taking meals 20 miles over some very rough roads to serve these kids lunch every day and that it was not a very feasible operation. This bill does not in any way cut out the mandatory structure as to food that should be served and teaching the kids about proper diet which I never had the opportunity to have.

Senator Foley moved to make **SB 22** a special order for March 15 at 3:01 p.m.

Sen. FOLEY: Mr. President, I have received some phone calls against this bill and I understood that there were a great many people who came to the hearing and spoke against the bill and I just don't think it would ever pass, I guess and didn't pay attention to it. One of the towns in my district is mentioned as being under 75 people and until I speak to the people who called me from Newcastle, I would prefer not to vote on the bill for this reason, I'd like to have it made a special order.

Sen. SAGGIOTES: I would like to speak in favor of the motion made by Senator Foley. I think I've got either three or four towns affected and in that extra time, I could do some research.

Adopted.

HB 117, relative to a town's authority to appropriate for school purposes. Ought to pass. Senator Sanborn for the committee.

(Sen. Saggiotes in the chair)

Sen. SANBORN: Mr. President what HB 117 does is pretty well defined in the analysis. In the statutes RSA presently read under RSA 31:4 and this is powers and duties of the town, appropriations is the heading there, and I under 31:4 says schools for the support of schools and to build and repair school houses. As it also states in the analysis, RSA 194 gives this duty to the school board. So we have a little place where one role contradicts the other and all this does is clean up some past mistakes and removes 31:4 I from the statutes the

town duties it gives it in full to the school board.

Sen. ROCK: Senator, if the committee researched thoroughly RSA 194 does indeed give the exact same powers that RSA 31:4 does?

Sen. SANBORN: I believe that our chairman had copies of both RSA's at his elbows during the hearing and during the executive session and informed us that this was true.

Sen. ROCK: I'm sure you understand Senator, that I see two red flags in the bill. I see Representative Bednar and Department of Revenue Administration. One of those alone would be enough to cause me concern the two of them together and I really have to ask that question.

Sen. SANBORN: Senator, I assure you that even one member of the committee made the same statement that when he saw a bill with Bednar's name on it he immediately began to look for all colon's, comma's and everything else and he ended up by voting in favor of ought to pass.

Sen. ROCK: Do you agree senator that the one sentence bills are often the ones that cause us the most concern after we've voted them?

Sen. SANBORN: I'll agree with you.

Sen. BRADLEY: Senator, I think your intermission is right that these two statutes overlap, my question though is might not there be cases when the town legitimately spends some money which would get used for school purposes. I'm thinking of an example of a situation where a school might be using a town building for some purpose which the town was not ready or willing to sell or transfer over to the school district which has to be fixed up or something and the town would therefore feel it ought to fix it up even though I suppose the expenditure is for the school purposes, what is the evil we are trying to do away with here? I don't see it.

Sen. SANBORN: The evil that we do away with here is something that is not being done. The school district raises an appropriation of such sums of money as needed to maintain the school etc. etc., and the town budgets don't even have any item relative to school appropriations in it. All they do is recommend, go out and gather the money and turn it over to the school district.

Sen. SMITH: I want to assure Senator Rock that the committee looked with deep concern at this bill because of the sponsor of the bill and Senator Rock you may recall that I

have questioned some of the sponsors' bills in the past. However, we did I think, take a long look at it and I think that the main reason that the Department of Revenue Administration wanted to put this bill in was due to the fact that they have had questions from towns and some confusion from towns in the past dealing with this. They thought if it was eliminated there would then be no more problems within the statute.

Adopted. Ordered to a third reading.

SB 27, revising the occupational regulations relating to barbering. Ought to pass. Senator McLaughlin for the committee.

Sen. MCLAUGHLIN: Mr. President, this bill wasn't too important because the hearing only had people there who spoke in favor of it. The bill was sponsored by the Board of Barbers and they spoke very much in favor of revising the present rule we are now living under only to update them and change fee schedules. No one appeared in opposition to this bill and the committee recommends passage at this time.

Sen. BERGERON: Senator, I see a change in license and certification fees. I assume these are up?

Sen. MCLAUGHLIN: Correct, they are.

Sen. BERGERON: Could you tell me how much money is involved.

Sen. MCLAUGHLIN: I cannot tell you the correct amount but its increasing it two and a half dollars per year.

Adopted. Ordered to a third reading.

HB 6, granting reciprocity to certain licensed cosmetologists from other jurisdictions, if that jurisdiction participates in national testing. Ought to pass. Senator McLaughlin for the committee.

Senator McLaughlin moved to recommit HB 6 to the committee on Public Institutions.

Adopted.

HB 18, to require the operator of a motor vehicle to report an injury to a dog struck by his vehicle. Majority Report—

Inexpedient to legislate; Minority Report—Ought to pass. Senator Fennelly for the majority. Senator Gardner for the minority.

Senator Gardner moved to recommit HB 18 to the committee on transportation.

Adopted.

HB 26, requiring the use of a protective safety cage when changing split rim truck tires in a repair shop, garage or service station. Inexpedient to legislate. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President members of the Senate, the committee felt that the way the bill was written, having a tire cage would for instance, if you had a fourteen hundred twenty tire and the cage was made for that, and then you put a smaller tire into the cage, it would be very dangerous and someone could get hurt. This is one of the reasons why the committee felt that the bill should be reported inexpedient. At the same time, it was also proven before the committee that instead of using a cage as recommended to the committee that you could also use a $\frac{3}{8}$ chain with a grab hook and therefore it would be a lot safer for anyone to interchange some of these tires with split rims.

Sen. ROCK: Senator, could you explain what this cage is and how it works and what it does?

Sen. LAMONTAGNE: The cage is made with a steel bar and its rounded up and it has a bottom where its welded to and its open on both sides. What you do is put the tire inside this cage and then you put the air hose in order to put the air into the tire at the same time the split rim if it does come apart it stays inside that cage. But this is a cage made out of possibly two and one half to three inch pipe.

Sen. ROCK: Was there any indication that there had been an injury in the State where someone didn't use this cage?

Sen. LAMONTAGNE: There has been. I have seen someone get hurt when they did not use anything at all. Where a person would turn around and put some air in a split rim and then the tire would just blow and the tire and wheel would fly anywhere. And I've seen people get hurt, but this cage here, the way the bill is written would have to have different size

cages in order to be able to avoid injury.

Sen. SMITH: I'm no expert on this subject but I've seen in garages generally when changing a split rim tire that they will put the tire under the lift put the lift down on top of it and isn't that just as safe?

Sen. LAMONTAGNE: Yes it is just as safe because the weight of the blade would hold the tire from flying and therefore its not necessary to have one of these cages, where someone might get hurt.

Sen BROWN: I rise in support of the committee report. Through the years I personally have changed many of these split rim tires. Although I do agree that one does take precaution such as Senator Lamontagne suggested by chaining between the spoke wheel around the tire, if it should spring out if one knows how to do it by inflating the tire gradually and tapping the rim with his hammer gradually it goes up. I have never seen one go although I have heard stories that they have gone. But I personally, have changed many of them through the years.

Adopted.

HB 72, making general revisions of the law relating to parachuting. Ought to pass. Senator Healy for the committee.

Sen. LAMONTAGNE: Mr. President members of the Senate. The aeronautics commission have introduced this bill to enact into law some restrictions on parachuting. These people that are using parachutes who are jumping from an aircraft are now only regulated by some federal regulations. This will make it State regulations. At the same time there are some questions being asked of the commission and in reference to some of these people that have been jumping especially when the wind is blowing real hard that many of these jumpers have been taking alot of chances. But this matter and other regulations for parachute jumping will be under regulation and not as a law. The sport of jumping in New Hampshire is increasing very much and thats why right now they want to set up the law and at the same time set up a set of rules and regulations which will be done by the aeronautics commission.

Sen. BOSSIE: Senator, if we had to be philosophically consistent why should we vote for HB 72 which would require people to wear auxillary parachuts and require them to have some sort of a guide wire set up for the first five jumps when just about two weeks ago we said that people who ride motorcycles with helmets should not be required to. If anyone is stupid enough to go up in the air without a parachute that's their own problem. How long is big brother going to be interfering with peoples lives?

Sen. LAMONTAGNE: Well Senator, let me say this. Parachuting cannot be compared with these helmets that you have been speaking about because after all when a person is in the air and jumping out of an aircraft that at the same time he is endangering the lives of other people. Especially the pilot. And at the same time if something did happen to that pilot, then someone on the ground could be hurt. Now you cannot compare the helmets along with parachute trooping and therefore this is a sport and as I said its increasing very much in New Hampshire, especially up north at the Berlin airport having a lot of shows we have individuals who are jumping and they are jumping almost every Sunday. Again, I was the one that brought the problem to the Aeronautics Commission. At the last sky jumping we had up in Berlin they had these parachute individuals who were jumping out of this plane, it was so bad that day that the sky jumpers could not jump because of the wind. It was necessary for them to wait two and a half hours before jumping. Thats how bad the wind was and still these people that were in that plane jumped out of the plane in that wind. One boy got carried out about $\frac{3}{4}$ of a mile and landed in a treetop Thank God he did not get even a scratch. But that is luck. It could happen. If there were rules and regulations or a law then this would not happen at the same time it would be for the public safety.

Sen. FENNELLY: I rise in support of the committees report. I think there is a lot of difference between riding a motorcycle and jumping out of an aircraft at three or four thousand feet and as our famous colleague once said, Senator Ferdinando, it's a good bill and I urge you to support the committee's report.

Sen. SANBORN: You seem to recognize this to be a good bill, I'm a little bit confused here. We started out here with RSA 422:329-29 of what a parachut is and then we go to 31 what a novice student and so forth 33 and parachutest jumps and then we get down to paragraph four under prohibition we jump back to 12. Now basically what my question is, are we talking about 422:34, is this sports parachuting or parachuting in general.

Sen. FENNELLY: Well, I have not read the RSA 422:34 I would presume that it would be parachuting in general but I would further question the expert Senator Lamontagne.

Sen. SANBORN: If this is parachuting in general when we get into roman numeral 12 somebody is flying along enjoying themselves up in the White Mountains or some place like that and the plane suddenly catches fire, it seems to me that some of these prohibitions if he hasn't got a safety line, or auxillary parachut what does he do? Ride the plane down.

Sen. FENNELLY: I think if the planes on fire Senator Sanborn I think everybody is going to forget about the odds and so forth and they will jump.

Sen. SANBORN: Do you think he will jump even if it's against the law.

Sen. FENNELLY: Even if it's against the law.

Sen. LAMONTAGNE: Mr. President, I believe that some senators don't seem to understand the changes that there are in this bill. I did talk about the rules and regulations that are going to be set up which have not been amended but what I would like to further say is there are some parachutes that do not have an auxillary. If this is passed, then they have to have permission from the commission, thats the number one thing they have got to have. At the same time the commission will set up regulations.

Sen. HEALY: I was not in full attendance at this hearing and I think there must have been some mistake on assigning me to report it out. I left that meeting because of another appointment at the time. Apparently there has been some mistake on reporting this bill out.

Senator Bossie moved to indefinitely postpone HB 72.

Sen. BOSSIE: Mr. President, I think if the senate is to be consistent in their actions as we did with the Motorcycle bill then I think we should kill this bill. I think that Senator Lamontagne has many good suggestions and certainly these horrid tales that we hear about the Berlin winter carnival, I'm sure happened and I really feel sorry for these people; but they do it because they want to do it. The fact remains that if we are going to pass these things, anything that is unusual, how about these sky riders these people that jump off mountains, what are we going to do with these people that don't have parachuts? I think we are getting into an area that its very hard to legislate. As Senator Fennelly was questioned by Senator Sanborn what do you do if the plane is going down? You either have to jump without the law or do something else. Lets not bother any more with this foolishness. Let people do what they want and if they get killed in a crash they asked for it. That is there problem and I think we should kill this bill and indefinitely postpone it because we should not continue to let these things happen.

Sen. JACOBSON: What is the difference between parachuting in general and parachuting for sport?

Sen. FENNELLY: I think in the general terms as Senator Sanborn said, when the aircraft is on fire. For sports you are doing it on your own.

Sen. JACOBSON: There was some question raised about the helmets and I think you referred to that question, could we instead of comparing the motorcycle law could we compare the National Football League rule they have to wear helmets they are engaged in sports and parachuting is a sport so we could get a legitimate comparison.

Sen. FENNELLY: Senator Jacobson, this Senate can do anything. I'm sure with your support we could have the NFL in here.

Sen. JACOBSON: Is it also true that they can do what they want without my support?

Sen. FENNELLY: That is true too.

Sen. POULSEN: Mr. President, I rise in opposition to the motion. This bill is simply the same as all the matters that the Aeronautics Commission do which make safety rules. This has to do with people who do skydiving and only outlines a course of instruction more than anything else. The use of the automa-

tic tripper the first five jumps and things like that. I think that its only logical assessment of the training they would have to go through to jump with a parachute for fun if thats fun.

Sen. BOSSIE: Senate President Jacobson in the previous question to Senator Fennelly I inquired about a helmet because this is a dangerous thing whether its for fun or whether its an emergency. Don't you think that in view of the hazzardness of parachuting either with or without the parachute that you should have a helmet and wouldn't you favor that amendment if my motion should be defeated?

Sen. POULSEN: Senator Bossie I would have little experience with members of my family in parachuting and they seem to mostly injure legs and feet and ankles more then they do heads unless they in some way put the parachute in backwards. I don't think its possible to land on your head.

Sen. MONIER: How many people in the senate have ever jumped or parachuted from an aircraft? Fine. That makes two of us and I can assure you Mr. President that if I was in the airplane and jumped it was not for sport. Therefore, I think that Senator Lamontagne's point with the bill was that it was to set up guidelines for that particular sport. I don't think that is the same as motorcycling or driving on a highway which is supposed to be safety for somebody else. The truth to the matter is that regardless of the bill or regardless of regulations if you are in an aircraft and had to jump with a parachute Mr. Fennelly you will jump regardless if there is a law passed or not. The other is that in terms of this I have to support Senator Bossie because I just can't buy that we have to keep protecting these people in this kind of a thing although I do not believe that this is the same as motorcycle helmets which some people would like to pretend because if you've ever gotten hit by a person who fell from a thousand feet its a lot different than the guy coming through the windshield as I mentioned the last time.

Sen. LAMONTAGNE: Mr. President and members of the Senate, I'm very sincere in what I am going to tell you because I have witnessed it myself and seen with my own eyes problems that occur. In adopting this bill, parachute means, a safety device to be used and this is very important because right now, let me say this first, there was three persons in an aircraft and a young girl jumped out without any experience and the wind carried her away and she landed in the Andros-

cogic river. I'm sure you have seen that in the news. The pilot of the plane Thank God, landed his plane and crashed his plane. Both men that were in that plane ran over to the Androscogic River and took the girl out with the parachute. It had been another five minutes, she would have been gone. This is not just a story. This is the truth; but now if the pilot who was operating the aircraft comes under the Aeronautics Commission would have to get permission and at the same time regulations were set as I told you it's going to be a safety measure. Let me tell you that anyone who is using these kites, do not jump from an airplane they jump from some hill and go down a hill by flying with these kites and this should not be considered any more than the helmets. I think this is important. It's a safety measure. I'm hoping that you will defeat the motion that is before you and adopt the bill.

Senator Blaisdell moved the previous question.

Adopted.

Motion failed.

Ordered to a third reading.

SJR 1, establishing a committee to study the feasibility of quarter horse race meets running concurrently with thoroughbred race meets and making an appropriation therefor. Ought to pass with amendment. Senator Fennelly for the committee.

Amendment to SJR 1

Amend the title of the resolution by striking out same and inserting in place thereof the following:

JOINT RESOLUTION

establishing a committee to study the feasibility of quarter horse race meets running concurrently with thoroughbred race meets.

Amend the resolution by striking out all after the resolving clause and inserting in place thereof the following:

There is hereby established a 6-member committee to study the feasibility of quarter horse race meets running concurrently with thoroughbred race meets. The committee shall be composed of the following members or their designees: the majority leaders of the senate and house, the minority leaders of the senate and house, and the chairmen of the senate and house ways and means committees. The committee shall elect one of its members as chairman and shall submit a report of its findings to the president of the senate and speaker of the house not later than February 1, 1978. Members of the committee shall receive legislative mileage while performing committee business.

Sen. FENNELLY: SJR 1, basically sets up a six man committee to study the feasibility of quarter horse racing in the State of New Hampshire in the future for additional revenue. There is an amendment on page four it has been amended we have taken out the appropriations of \$1000. The committee felt that there was no need for that, nobody is going to travel anywhere and also the six member committee as in the amendment has been changed: the majority leaders of the Senate and House, the Minority Leaders of the Senate and House, and the Chairmen of the Senate and House Ways and Means Committees. So basically that is the amendment and thats the bill and I urge you to support the committees report.

Amendment adopted. Ordered to a third reading.

Senator Preston moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, March 10th at 1:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 117, relative to a town's authority to appropriate for school purposes.

SB 27, revising the occupational regulations relating to barbering.

HB 72, making general revisions of the law relating to parachuting.

SJR 1, establishing a committee to study the feasibility of quarter horse race meets running concurrently with thoroughbred race meets.

Adopted.

Senator Bradley spoke under Rule No. 44.

VISIONS OF OUR STATE'S FUTURE

In this session of the legislature, we have been given two very different visions of our state's future—one by Governor Thomson in his inaugural and budget messages; the other last week by our Senate President Jacobson.

I reject both visions because, if fulfilled, one will give *prudence* a bad name; the other will give *reform* a bad name. And I believe that both prudence and reform are worthy ideals, and are deserving of better.

I can best compare the way I view the Thomson and Jacobson visions by metaphor. I ask you to think of the course of our state government as a large wagon train on a cross country journey which has just arrived at the edge of a wide river. A landslide has blocked off the trail behind them—thus, as in life, there is no going backward in time. Some believe they can see the far shore well enough to know that it represents their future and their destiny.

But the leader of the wagon train who has rather bad eyesight and a fondness for digging trenches advocates that the group should make camp and remain indefinitely where they are. Part of the group follows this advice and draws its

wagons into a circle at the water's edge. Night comes, the waters begin to rise and threaten to wash them away. "Dig trenches around the camp!" cries the leader. Trenches are hastily dug and the water is diverted and the camp saved. But in the morning the people notice that the trenches have been filled in by erosion from the swift stream. "What do we do now?" ask the people. The leader answers, "Dig the trenches again. We must re-trench!"

And so they do. They even form a committee on re-trenchment. But before long—you know the ending—they are swept away by the waters and thus lose control of their destiny.

Well, that is the vision which will give prudence a bad name.

Another leader steps forward. He is a man who is wise enough to know that the wagon train must try to cross the river, but unfortunately has too much of the daredevil in him. Yet he is a man of much inventiveness and varied talents and captivates another part of the wagon train by the sheer novelty of his ideas. He and his followers quickly construct an immense contraption that is half motorcycle and half rocket and place it at the base of an equally immense inclined ramp pointed towards the opposite shore.

"This thing can get us across the river in no time," he assures his followers. "Just hop aboard and I'll light the fuse."

All of you who follow the exploits of Evel Knievel know the fate of this group. A lot of false starts, wheel spinning and broken bones—and, thank God, the thing crashes before it gets over deep water.

This represents to me the vision of our state's future which will give reform a bad name.

Fortunately for the rest of the wagon train (and the State of New Hampshire) there is a third vision. Most of the people in the wagon train are long on common sense. They have learned that prudence should not stop reform and that reform should be tempered with prudence. They travel along the shore until they find a shallow part of the river. They discover, as many other pioneers before them discovered, that with oxen swimming, wagons floating and all hands pushing and holding on that their wagon train can ford the river without serious loss of life, limb or property.

So it is in the real world of our state government. We cannot

progress by stagnation. But neither should we try to progress precipitously. A mature state should take steps toward reform which are evolutionary—not revolutionary, which are prudent—not reckless.

In real life, the Thomson vision points ultimately towards one of two conditions—either (1) the elimination of all state aid to towns and cities or (2) a massive commitment to casino and slot machine gambling. In either case, our state will lose control of its destiny.

I submit that power does follow money and that a state which has no money for its cities and towns forfeits its ability to govern them to the federal and municipal levels.

Whether the casinos and the slots are state owned or privately owned or run by the Mafia or run by well meaning people, I submit that such a source of revenue will be an ugly tail that wags a remorseful dog.

Consider the claim that slots alone can produce over \$100,000,000 per year in state revenues. Then consider the number of well financed lobbyists and influence which a clean gambling operation such as Greyhound racing has, an operation which produces less than \$10,000,000 per year for the state. The multiplication is easy to do—except that it turns my stomach.

It will take me longer than I have today to respond to the many proposals in the Jacobson vision, several of which contain some elements I like and which, up to a point, parallel some of my own proposals for reform. But for now, let me just assure the judiciary, the University of New Hampshire, county government, and local school boards and supervisory unions throughout our state that this legislature is not about to send them on a daredevil's ride over the cliff.

Remarks of State Senator David H. Bradley,
District #5, March 9, 1977.

Sen. JACOBSON: Could you tell me in what category Christopher Columbus was of your three visions?

Sen. BRADLEY: Well, I hadn't thought about the question; but I suppose he possibly was a daredevil and I guess further to answer that, I don't think the State of New Hampshire is comparable to the world as it existed at the time of Christopher Columbus.

Sen. JACOBSON: Which category was Copernicus in?

Sen. BRADLEY: I'm not sure but maybe I'll conceive the point for the sake of line of questioning that he was a daredevil too.

Sen. JACOBSON: What category was William Bradford in who left Lyden around August of 1620?

Sen. BRADLEY: Well, again I think he might have been a daredevil but I can't compare the 17th century with our own in the State of New Hampshire today.

Sen. JACOBSON: Given your concessions on these people and I could prolong with list ad infinitum, would you say that daredevils have made more progress than extremely cautious people?

Sen. BRADLEY: I think that's probably true. And I don't propose extreme caution. I propose reform with some caution.

Senator Bergeron moved to adjourn at 4:35 p.m.

Adopted.

Thursday, March 10

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh, thou whom sees all, knows all, and loves all, grant us a thoughtful and relaxing interim these next few days. For with this short respite we can probe into our minds and hearts weigh and consider what is for the good of all our attitudes one to another our open mindedness. To each decision we must arrive at and our respect for our nation as a whole.

We recognize our own short comings and because of this oftentimes fail to reach our goal.

Thank thee for thy constancy to us one and all.

Amen

Senator Blaisdell led the Pledge of Allegiance.

INTRODUCTION OF GUESTS
INTRODUCTION OF SENATE BILLS
First and Second Reading and Referral

SB 101, relative to allowable uses of written reports filed after an accident. (Lamontagne of Dist. 1—To Administrative Affairs)

SB 102, relative to an adult tutorial program and making an appropriation therefor. (Saggiotes of Dist. 8; Smith of Dist. 3—To Education)

HOUSE MESSAGES
HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 181, 271, 275, 8, 17, 79, 82, 97, 200, 215, 251, 233, 255, 52, 160, 187, 223 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 181, allowing senior citizens to play beano for a nominal cash prize. To Ways and Means.

HB 271, relative to the proper display of the state and national flags. To Administrative Affairs.

HB 275, relative to the membership of the legislative utility consumers' council and expanding the council's jurisdiction. To Energy and Consumers.

HB 8, relative to the authority of the state fire marshal to order autopsies. To Public Institutions.

HB 17, permitting absentee voting in elections of the union school district in Concord. To Education.

HB 79, relative to the location of cemeteries. To Executive Departments.

HB 82, relative to the surnames of spouses after marriage. To Administrative Affairs.

HB 97, relative to the duty to record the discharge of an attachment upon real estate. To Judiciary.

HB 200, permitting a court to require a delinquent child to make restitution. To Judiciary.

HB 215, permitting the posting of "for sale" signs in mobile home parks. To Executive Departments.

HB 251, relative to the police standards and training council. To Administrative Affairs.

HB 233, relative to restrictions on the use of landings for aircraft operated for compensation or hire. To Transportation.

HB 255, relative to the registration of aircraft or air carriers that are "home based" in New Hampshire. To Transportation.

HB 52, relative to a person's property rights after his conviction for cruelty to animals. To Judiciary.

HB 160, relative to the procedure used to handle complaints filed with the commission for human rights. To Administrative Affairs.

HB 187, amending the penalty provisions of the mobile home park law. To Judiciary.

HB 223, requiring all lobbyists to wear a name tag when lobbying in the state house or the legislative office building. To Rules.

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION

First and Second Reading and Referral

House Concurrent Resolution No. 5

establishing a legislative committee to plan for a re-enactment of the Battle of Bennington.
(Referred to Rules)

HOUSE REQUESTS SENATE CONCURRENCE IN AMENDMENT

SB 49, exempting certain vehicles from the motor vehicle title law.

Senator Lamontagne moved to nonconcur and to set up a committee of conference.

Adopted. The committee will consist of Senators Gardner, Poulsen, and Lamontagne.

ANNOUNCEMENTS

In response to the request of the Senate, there will be a two day notice for committee reports.

The Senate will meet at 3:00 on Tuesdays, 3:00 on Wednesdays and 1:00 p.m. on Thursdays until otherwise ordered by the Senate.

SUSPENSION OF RULES

Senator Trowbridge moved to suspend the rules of the Senate so far as to allow a committee report on HB 31 without a previous committee hearing.

Sen. TROWBRIDGE: The suspension of the rules on HB 31 and explaining why I need suspension of the rules. Gen. Blastows has appeared before our committee many times saying that he is way over in his problem with Pease Air Force Base. I think many of you have heard about it. For many years Pease did not charge them the proper share of the utilities for the national at Pease. Then some auditor found this out and about last June the fiscal committee was told the price was going up to \$76,000 from about \$18,000. At that time we couldn't do anything cause we were not in session; but the Governor, myself, and Arthur Drake wrote a letter to the military, the Army, saying that as soon as possible when we were back in session the legislature and the state government would commit itself to make up this money. In comes HB 31 and it had in it the appropriation. The appropriations committee saw fit merely to remove the footnote that had been in the adjutant general's budget that said he couldn't use this money for any other purpose; but did not put any money in. HB 31 then comes to us and I know that we're committed to making this payment. So rather than having another hearing in which I would hear nothing except the same from General Blaistow as I have heard three times, I thought it was worth it to come before you to try and suspend the rule and put in an amendment which is on page 7 of your calendar which does put in the proper amount of money and removes the footnote. The

proper amount of money being \$57,931 which will be reduced to \$24,329 for the federal share. I think we are permitted in the State of New Hampshire to do this and doing it fast and therefore I'm living up to the agreement that was between the house appropriations last session. Senate Finance and the Governors office. Therefore, I would like to have you suspend the rules to consider this bill at this time.

Sen. MONIER: You've suspended the rules for the purposes of not having a public hearing can I ask how we got it in the calendar in here then as ought to pass without amendment. Did the committee meet without a hearing or what?

Sen. TROWBRIDGE: No, what happened is we discussed it in Senate Finance last week as to what we were going to do, whether to have another hearing. We then authorized the chairman to prepare an amendment to be considered. The amendment is in your calendar. Our real committee report is to suspend the rules and pass it on the floor.

Sen. MONIER: I am not in objection to that. I think its the first time in my short term in the Senate that I have even seen one in the calendar in which we needed a suspension of the rules but not the hearing. That was my point. Usually it is requested and discussed. Isn't that a normal procedure.

Sen. TROWBRIDGE: No I don't think so. You can suspend the rules if the Senate will allow it by a 2/3. Senator Lamontagne says its been done before for what you need suspension for. Thats all I need suspension for.

Sen. BERGERON: Senator, I'm just a little curious when I look at the original bill and look at the amendment on the figures, the bill says \$76,631 the amendment drops it down to \$57,900 and of course the same would be true with the reimbursement from the federal government. Can you tell us what the difference is between the two figures?

Sen. TROWBRIDGE: When Representative Benton first filed the bill, he was given the figures that were in the original bill. Since then I've talked to General Blastows and the figures have been adjusted and considered the most up-to-date figure that he needs and it's down to \$57,000 so we save some money.

Adopted.

COMMITTEE REPORT

HB 31, repealing restrictions on certain expenditures relative to Pease Air Force Base. Ought to pass with amendment. Senator Trowbridge for the committee.

Amendment to HB 31

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

making a supplemental appropriation to the adjutant general's department for fiscal 1977 and repealing restrictions on certain expenditures.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Appropriation. In addition to any other sums there is hereby appropriated the sum of \$57,931 for the fiscal year ending June 30, 1977 to be expended by the adjutant general for current expense items for Pease Air Force base. Said sum may not be expended for any other purpose. This appropriation shall be reduced by \$24,329 the amount of federal funds made available for this purpose. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Repeal. The asterisk footnote to 1975, 505:1.02, 02, 01, 20, is hereby repealed.

3 Effective Date. This act shall take effect January 1, 1977.

Sen. TROWBRIDGE: The amendment again is on page 7 and this is what I have explained to Senator Bergeron, that we have reworked the figures to the point where we think General Blastows will be covered and it also removes the footnote as part of his ability to lower the figures as removing the footnotes means he can take any other funds he may have to apply to this cost whereas before he was footnoted he couldn't use the money for anything else. That's why we removed the footnote to put in the money.

Sen. BROWN: This does not pertain directly to the bill Senator. I know there has been a lot of news media in relation

to our national guard. Why do we utilize Pease? Do we use the government facilities?

Sen. TROWBRIDGE: We rent a great deal of space down there for trucks, material, and classrooms, and regular offices of the national guard. It's a substantial amount of square footage and big hangers where they have the planes. Heating bills, that's where the utilities come in. They have always been there since I've been around.

Amendment adopted. Ordered to a third reading.

SB 47, providing for payment of a claim to Clayton F. Osborne and making an appropriation therefor. Majority: Inexpedient to Legislate. Minority: Ought to pass. Senator Sanborn for the majority. Senator Blaisdell for the minority.

Sen. SANBORN: Mr. President members of the Senate, the majority of the committee, if I remember correctly, at the time it was a 4-3 vote that decided this was inexpedient to legislate. In part we should recognize that Clayton Osborne was paid in back salary in excess of \$12,000. This back salary that he was paid was only for a half year, in other words I believe it was 3/4 of a year so he had in turn received through his regular work his 1/4 of a year salary so evidently his salary was in excess of \$16,000. The legal fees requested here for Mr. Osborne are based on 1/3 of whatever was obtained from the State after other deductions. He was as I stated before obtained over \$12,000 and through claims of living expenses, insurance, etc., etc., all those things that have to be normally removed from a salary, FICA and so forth it came down to a matter of about \$6,600 odd and the attorney settled for 1/3 of that which is the amount that shows here in the analysis \$2,224. Because of the actual sums that were received by Clayton Osborne, the majority felt that he had received enough and we shouldn't start paying lawyers because this may get us into some can of worms later on down the stream.

Senator Blaisdell moved to substitute the words "ought to pass" for the words "inexpedient to legislate."

Sen. BLAISDELL: Briefly, Mr. President there will be two other members who will speak to this. Clayton Osborne was charged with by this State of New Hampshire some wrong doings and he was exonerated and I believe the State has a responsibility to this man after charging him with a crime and then being exonerated to pay his expenses. I think we checked with the lawyer for Mr. Osborne and if the lawyer had charged the true amount of the cost of this engagement it would have been a lot higher than \$2,000 some odd dollars. He thought, in the words of the lawyer, that it was a fair case. This man was wrong and I believe that we as representatives of the State of New Hampshire should make this right for this man because he would not have had these expenses if the state had not unjustly taken him to court and I'm sure there will be other people to speak to this.

Sen. BOSSIE: Senator Blaisdell, it's very interesting in our criminal system that everyone that is charged with a crime is charged not by the person against whom he made the offense but by the State of New Hampshire. Wouldn't it be fair if we were going to reimburse this gentleman that we reimburse everyone for their attorneys fees who have been found not guilty by any court in this State?

Sen. BLAISDELL: I don't think Senator Bossie that this even relates to the same problem. I think that there are other people that have asked me to put in bills but this is directly due to the State. The State had the responsibility of charging this man and he was exonerated I think from that he should get his money back.

Sen. BERGERON: Senator, is it your intent through your motion to reimburse someone who is out to pocket some money out of this entire incident?

Sen. BLAISDELL: Legal expenses, Senator Bergeron.

Sen. BERGERON: It's my understanding through Senator Sanborn's report that the man was reimbursed his back wages, in this period of time that he was out of work was he working somewhere else?

Sen. BLAISDELL: I believe the answer would be no.

Sen. SANBORN: Senator, isn't it true that at the time this came up before the Senate Finance and then our executive session, we agreed that it wasn't our job to try the man whether he was guilty or not guilty, that had been taken care of by the courts.

Sen. BLAISDELL: That's right Senator.

Sen. SANBORN: However, at that same time wasn't there an indication that a couple of underlings in his department were found guilty? Do I understand that correctly?

Sen. BLAISDELL: I believe there were people in that department that were found guilty. I don't know if they were under him or not Senator.

Sen. SANBORN: If there in his department, they must be under him?

Sen. BLAISDELL: I don't know if they were in his department or not. Maybe I could relate to someone else on that, if they were in his department certainly they would be under him.

Sen. SANBORN: Don't you feel that a supervisor of a department especially as small as this with only a small number of employees the supervisor should know what his people are doing?

Sen. BLAISDELL: Not in all cases.

Sen. SANBORN: In some cases a supervisor won't know what his people are up to over the length of time that this case was supposed to be going on?

Sen. BLAISDELL: It could happen Senator, yes, over a period of time yes.

Sen. LAMONTAGNE: Mr. President and members of the senate, I arise in favor of the substituting motion and I'd like to explain to the senate again that I have introduced this bill because I have known this man for 23 years and in the 23 years that I have known Clayton Osborne, I have always known this man and I will use the word excellent as far as a public servant. He has served these people in a very excellent manner. I'd like to refer to a letter that has been addressed to Robert Trowbridge of the State Finance on February 23. I'm sure that every member of the finance committee has seen this letter or has heard about it. If not I think you ought to hear about this paragraph I'd like to repeat and this is in the letter that has been assigned by the attorney representing Clayton Osborne, Francis J. Frasier. This is the paragraph I'd like to refer to:

If I were to charge what a normal office hourly rate would be, which generally runs between \$40 and \$50 per hour, I would say the bill would be between \$4,000 and \$5,000. However, the amount I agreed upon for legal fees certainly paid my salary and I felt that it still left Mr. Osborn with some benefits for fighting for his position. I am fully satisfied with

the payment Mr. Osborn made to me. He was a person of very sound character and moral strength and it was my pleasure to represent him.

It would be a very just thing for the State of New Hampshire to pay for Mr. Osborn's legal fees as this will assist a man who did nothing wrong. He was forced to protect his job and his good name. It is clear that he has over a long period of time given conscientious service to the State and its citizens.

Here is a paragraph which I would like to read from Mr. Roy Y. Lang, Secretary of the Personnel Commission relative to Mr. Clayton Osborne: (C). With respect to charge numbered (4) in the letter of discharge the Personnel Commission finds that said charge was totally without foundation.

Sen. LAMONTAGNE: Why shouldn't this man receive what is due him? It's money out of his own pocket and it should be paid for by the State. I think there's been enough evidence as its been said we don't make a decision for the courts but we certainly are here to make decisions on what's right and what's wrong. I personally feel that the publicity that's been out against Clayton Osborne has certainly hurt him very much and it has certainly hurt his family too. Why should we hurt him in his pocketbook? Now there's been some questions asked here today about some of his staff doing wrong. My gosh I'm sure that many of you who have been here don't have to be here as long as I have, but as many of you that have been here a long time and I'm sure that you have seen some other wrongs that have been done before by the State of New Hampshire and people have been reimbursed. At the same time every case is different. I'm not an attorney but I have seen cases and every case is different and therefore this one must be judged by itself. There is enough evidence that the man didn't do anything wrong. Now if somebody has done something wrong, let me say this that Clayton Osborne is not the director he happens to be a deputy. There is a director of the title bureau and therefore the director is the one who has to look over some of the employees that are working in his department. The director, but not Clayton Osborne. Even so that he has the full control of his division, of the work that he is doing; but there is a director and why should Clayton Osborne be blamed for some wrong doing that has been done by some employee. And don't tell me that wrong doing is not going on in other departments; because over a period of years I'm sure there has been some

other matters that have come up of wrong doing but why should a leader be blamed for what individual people are doing that is wrong. I'm hoping that you people will look at it in fairness and justice, that it's wrong to take funds out of Clayton Osborn's pocket and take it away from his own family. I think it's wrong. We should reimburse him for what has happened.

Sen. TROWBRIDGE: I'd like to speak in favor of the motion by Senator Blaisdell. I'd like to answer a couple of questions that have arisen. One thing about normal criminal processes is that you normally have a grand jury to go through. You have some intermediary place where the charges are brought to impartial people and at that point an indictment comes down. Under the personnel situation there is no such procedure. Clayton Osborne was simply discharged one day saying you're guilty and the Title Division is in trouble and you are involved, you are off the payroll, with no notice of preparation or anything else and he scrambles back to the Personnel Commission, endless hearings all of that which Mr. Fraser the attorney talked about and he comes back and it is found out that there is no basis whatsoever for his being discharged. You don't have the normal criminal thing which Senator Bossie brought up. There has been no indictment. With one mans judgment you get out. That's a differentiation thing to the question of Senator Bossie. Secondly, as Senator Lamontagne tried to express, it is well known in the law that here he is the director but by definition what the guys were doing was concealing what they were doing. They concealed it so well that one bank in Boston practically went broke on the title that they managed to manipulate. The people who were not doing the wrong doing were concealing it not only from the bank but from Clayton Osborne and everybody else. That was the problem. So I can't really see how Clayton Osborne can be accused of not knowing when the whole purpose of the fraud was to make liable slander and this is really what this wrong comes down to, it's very often that the court will award attorneys fees for the person who has been liable to slander so that it is not unheard of by any means to say the attorney fee in this kind of case where it is personal reputation involved, should be picked up by someone other than the litigant, someone other than the innocent party who at the end of it gets his money back. He has to pay his mortgage, everything else why should he be out \$2200 simply because the person

who is in charge of the investigation said O.K. I'll pass the buck down to Clayton Osborne. Why should he be out of money? For those reasons we felt this was a legitimate claim against the State of New Hampshire because there wasn't anything anywhere in the process that insulated it from the State. No grand jury or anything. No protection and I agree with Senator Lamontagne that there are times here where we are going to have to handle claims in this way, differently from the court if we are the general court and we decide what we think is right. I think the vote of this Senate should show that this time we had an employee of 23 years standing who's been wronged. I for one am going to vote for ought to pass.

Sen. BOSSIE: Senator Trowbridge would you advise the Senate as to the precedents of this matter with regards to how many other cases does the State of New Hampshire reimburse individuals for attorneys fees for appearing for them before the State Personnel Commission in which the litigate was successful?

Sen. TROWBRIDGE: To my knowledge there has been one other case and that was about 10 years ago.

Sen. BOSSIE: How much was paid for attorneys fees?

Sen. TROWBRIDGE: Around \$1200.

Sen. DOWNING: Senator, I guess the impression boils down here as some people are entitled to reimbursement and others are not. Do you feel that any individual that has been caused to spend money in his defense in justification of his innocence proving his innocence against the charge or investigation by the state without going through a grand jury process etc., is entitled to reimbursement of any expense that the state has caused him?

Sen. LAMONTAGNE: I personally feel that anybody who is proven innocent as in this case, where he has the Personnel Commission who says that he did not do wrong and at the same time he has not been found guilty then I personally feel that these fees should be paid and at the same time I can tell you this that I have known of some department heads who had to go to court and have hired private attorneys and therefore were reimbursed by the State of New Hampshire.

Sen. DOWNING: It seems that I'm glad that you agree with that because I agree with the objective that you are trying to do now. I just wanted to know if we still agree that this body by resolution caused the investigation of an individual a short

while back and this individual had to spend money to justify their innocence and to my knowledge they were found innocent without going to a court or anything by the Attorney General's office so then according to your thinking it would be justified to compensate them in some way for their expenses as well?

Sen. LAMONTAGNE: Anyone who can prove that he is not guilty of wrong doing and the matter goes before the claims committee or finance committee and I would be in favor of anyone who is not in the wrong and it can be proven.

Sen. BRADLEY: Senator Trowbridge the law of this state as I understand it in addition to the cases that you mentioned of liable and slander, there is a general equitable principle. In any case that the presiding justice has the power under exceptional circumstances typically would be what lawyers call baseless pleading or the like to award attorneys fees. Now if you were sitting as a judge in this case, case of inequity if you will, and the motion was made for legal fees in the case. Do you think this would be the kind of case that would warrant the awarding of legal fees?

Sen. TROWBRIDGE: Yes. As I said earlier the thing that influences me more than anything else is that there is no intermediary between the arbitrary action of the supervisor and the eventual clearing of the man by the Personnel Commission. I see quite a different case when you go before a grand jury and you have 23 people there who have to indict you. This is one on one and the equity side, if I were sitting on the equity side since we have proven that he had nothing to do with it, there wasn't any question about it on the legal side the Personnel Commission I think in this case we say yup we include attorneys fees on this one. Especially when the recovery here, I didn't mention this under the Personnel Commission, his recovery is limited to his salary, not damages to his reputation, not to pain and suffering and all the other things that attorneys go at. Let's say he has a salary of \$16,000. That's the maximum recovery he can make.

Sen. BRADLEY: Given the answer you've just given, does that mean that we would feel compelled to award attorneys fees in every other case where the Personnel Commission makes a wrong decision?

Sen TROWBRIDGE: In Personnel Commission cases when you go through it you'll find that many of the claims are not for total discharge, they are for other things as well. Where

you have a total discharge and where it turns out that the discharge is for so-called criminal action. This is different than saying we are discharging him because he disobeyed his superior because he was negligent in this office. A whole bunch of difference between his performance and accusing him on a criminal basis which was what came up here today. That's where I really get off the track and say this is different from the normal kind of case.

Senator Downing moved that **SB 47** be made a special order for Wednesday, March 16 at 3:01 p.m.

Sen. DOWNING: Mr. President it's been called to my attention in recent days that another inequity if the Senate is to judge it as an inequity and feels the individuals should be compensated along these lines does exist and I haven't had time to prepare an amendment for the body, I will prepare an amendment for their consideration and I would hope to do that by next Wednesday. I urge you to support the motion.

Sen. MONIER: Senator, Do you mind informing us who the person is that you are discussing?

Sen. DOWNING: Yes. It's been called to my attention that a Mr. Harris, I've never met the gentleman but he was the subject of a Senate Resolution here in 1975, it was suggested he was guilty of wrong doing and not complying with the statutes and the attorney generals office was instructed by Senate Resolution to investigate the individual. To my knowledge there were never any formal charges filed, the gentleman was found not guilty but he did have to go to some legal expense in justifying his innocence, I think it is quite similar in nature and I'd like to see the Senate address itself to that area as well as this when I can properly prepare it.

Sen ROCK: I rise in favor of the motion from the Senator from Salem. I do so out of senatorial courtesy. I think if the senator wishes to make an amendment to this bill he should be allotted the time to do so. He should be afforded that courtesy as I hope we would give to any other Senator and I see no problem with making it a special order for next Wednesday.

Sen. LAMONTAGNE: Mr. President, seeing that the matter has been brought out in the open here before the Senate. I personally oppose the motion although I've always favored senatorial courtesy; but right now I personally feel that the Senator, in as much as I hate to say this, but somehow personality has got mixed into this Senate and I don't like it. Mr. Harris happens to be TEPCO or International Generation Inc.

that has soured the taste of the people throughout the whole State of New Hampshire including most all the people in Berlin N.H. It's a personnel affair and I think it's wrong to place an amendment on a bill here that can be proven, that Clayton Osborne has done nothing wrong. As far as evidence about Mr. Harris, I'd be glad at any time, but not on this bill, but I'll be glad to produce any kind of evidence you want because there has been enough investigation of John N. Harris TEPCO International Generation, Inc. and bad enough that it's in the Berlin City Council without being in this Senate and I think that TEPCO International Generation Inc.. I have wasted enough of your time with that and I'm hoping that you people will defeat the motion and therefore vote on the main motion, on an honest man, Clayton Osborne being reimbursed for not being wrong.

Sen. DOWNING: Senator, don't you feel that your statement now is in direct conflict with your earlier statement in response to my inquiry of you?

Sen. LAMONTAGNE: You are wrong. One hundred percent wrong because two men cannot be considered the same and if you want to just give me one minute and I'll go get you my TEPCO file right here and prove it to you now.

Sen. TROWBRIDGE: I'm well aware of Senator Downings probable amendment but I must say one of the things we are being asked to do here is to be a court and in a court you would never allow one persons claim to be bargained on to another. Thats one standard item in court. Now Justice Keniston has come to us and I have a bill coming through on how to handle claims and I hope it will, I'm glad we are having this debate now so that we will maybe respond favorably to that bill. But anyhow, whether you are for TEPCO for Senator Downing, for senatorial courtesy I don't care which, it is not proper for to tie Clayton Osbornes claim to a fight about Mr. Harris and TEPCO and I hope that you would not vote for Senator Downings motion to make a special order. Vote on this bill separately today on the merits or demerits of what has been said today and take up on a separate bill the claim of Mr. Harris.

Sen. MONIER: Senator, just out of curiosity, am I incorrect at the present the council of Berlin has action pending with regards to the TEPCO incident?

Sen. LAMONTAGNE: Right now, Senator let me say this, that the members of the city council on a 6-2 vote have

adopted to send the matter to court and the city council is sending the whole issue of TEPCO and IGT to the court and at the same time have granted the authority to hire a private firm to handle the case.

Sen. MONIER: I must rise in opposition to the request of Senator Downing. I wasn't clear of it but I think Senator Lamontagne has made it a matter of record with the council of Berlin or whoever else is involved with TEPCO and I haven't had the pleasure of being involved with them over the last five or six years, is already taking action and I think this kind of amendment would be very inappropriate at this time.

Sen. DOWNING: Senator, do you realize that my concern or the concern that has been addressed to myself is with something that this Senate did. A Senate action, this body, itself took against an individual, it ordered an investigation of an individual, a wrong doing. The investigation has been completed. That's what we want to deal with, not with what's going on up in the City of Berlin and it's continuing problem with that organization or individual or what have you. Completely unrelated. I would address myself to a singular action by this body two years ago and the results of that. Do you realize?

Sen. MONIER: That's not a question it's a comment, but I'll be very happy to respond to it. I also feel that while you are saying, Senator Downing, that the actions completed as a result of the Senate investigation that may or may not be true because a Senate investigation may well be a part of, as far as I know, of what now is going on as a legal matter in Berlin. I have no way of knowing that and I don't know if you have any way of knowing it but the obvious difference between this and Osborne is that Osborne's is completed.

Sen. DOWNING: Senator Monier, perhaps my earlier remarks were not clear. That's exactly the reason why I wanted to put it off until next Wednesday, so I could provide that documentation for you rather than hearsay.

Sen. ROCK: Senator, I have formed no opinion on the content of your suggested amendment because I haven't seen it but am I not correct that if this courtesy is extended to you as I hope it will be, the Senate in its wisdom will have before it prior to the special order the text of your amendment. Is that not correct?

Sen. DOWNING: Yes that is correct Senator.

Sen. ROCK: Would I be correct further Senator that if in

our wisdom in looking at that amendment it fails to gain adoption that we have acted individually and separately and without consideration to the Osborne case and that your amendment will indeed be considered as a separate issue not tied to or a part of anything else if it's rejected. Is that not true?

Sen. DOWNING: That is thoroughly correct Senator.

Sen. ROCK: If in fact at that time that motion or amendment fails to carry by majority vote, we will then have before us clean and simple the senate bill that we have at this time that you are asking to have made a special order and consider that separately and on its merits?

Sen. DOWNING: That is correct Senator. I might add that it would certainly give the Senate, I feel, a better picture of the dimension of what they are involved with in taking this type of action and reserving my judgment until that day as well both on my amendment and on the bill. It would seem like there is an isolated instance here and I think that it's much more extensive than that and that there are many people who must defend themselves against charges of the benefit of code of law and go to considerable expense not limited to one or two people. I just feel an additional consideration to let you know how broad it is and by next Wednesday some Senators may become mindful of some other incidents and if we are going to do this then we really ought to know what we are doing and the impact of it.

Sen. ROCK: Senator, when I spoke originally on endorsing your request it was my intention to be quite clear that I was not taking a position on your proposed amendment but was merely doing so out of courtesy I would extend to any member of the Senate who requests special order. Did you understand that I wasn't necessarily supporting an amendment that I have never seen?

Senator DOWNING: Yes I understood that and I appreciated your position senator.

Sen. TROWBRIDGE: Senator Downing, don't you see the difference between having one bill go through and your ability to bring another bill separately for Mr. Harris, see the difference between that and having a situation where lets say your claim was adopted by the senate and that way those people who are voting for the bill by the amendment would have to vote for one claim that they did not want in order to get another, isn't that just a political ploy?

Sen. DOWNING: No Senator. I think it should be a real serious concern of this body. By your explanation alone justifies the action that I am suggesting or the consideration on suggesting. Your explanation thoroughly justifies it.

Sen. TROWBRIDGE: Then why is it not possible for you to bring in a bill separately for Mr. Harris? Why would that not be the proper procedure?

Sen. DOWNING: Well Senator as you probably know that the amendment root is a very common practice rather than have another bill printed and so forth you're talking five or six hundred dollars to go through that process a cost which we really don't need at this point. We can use the amendment root, we have a vehicle, it's germane to the subject and I think it be far more effective than using a separate bill.

Sen. BOSSIE: Mr. President, I rise in support of the motion of the Senator from Salem to make it a special order. I think we owe this to the gentleman. He has been extremely good to us throughout the past several years whenever we should want a special order. I'm against Senator Lamontagne's bill but at the same time I'm against what he is trying to do in addition. I don't like the whole concept and I disagree with Senator Trowbridge although I do appreciate the fact that Senator Lamontagne finally has a lawyers bill before us which I normally don't disagree with. Now regarding the issue involved, I know the Senator from District I is very concerned with this and is very upset at this moment, but the fact remains that I don't think it is a political ploy. I'm going to vote against it anyway.

Sen. LAMONTAGNE: Mr. President, members of the Senate, honestly right now I feel that I have done wrong by introducing this bill for Clayton Osborne. I should have known an important bill as this, although I was very sincere when I accepted putting my name for an honest man like Clayton Osborne but now with an amendment to be tacked on to Clayton Osborne's reimbursement I don't believe that this is germane at all because Clayton Osborne in the bill that I have proposed before you is using state funds to reimburse a state employee. This proposal is nothing else to hurt me personally as much as I hate to say this: but if the amendment is adopted it means that this is going to be decided on the amendment that Senator Downing is going to put before you will have to be paid by the city. The two subjects are not germane. One is a local as I just said and I've already told you

that the matter of decision is being sent to court but not for the benefit of this Senate and as much as I hate to bother and lose some of your time; but let me tell you that it it was Mr. John N. Harris' claim that he had a loss then why isn't it on his financial report that he has submitted on December 31 went into effect on January 1. Why isn't it that the financial report doesn't show any loss? What does the financial report show? Let me tell you. Amounts payable-0-. Notes payable-0-. Mortgages -0-. Bonds -0-.

Sen. DOWNING: I don't think this is really related to the subject at all. We are not addressing ourselves to the amendment. The amendment is not before this body it's a special order of business. I think the Senator is taking liberty far beyond which he should be allowed.

Sen. LAMONTAGNE: Now, there is a financial report that has been made. Let me tell you that the same financial report was made the year before and the year before and the year before and this has been going on with a financial report such since 1969. My people are facing a serious matter and it was necessary to take it to court because Mr. Harris is a smart man and I'm sure Senator Downing that he has convinced you by the letter that has been sent to our President and you got a copy of it in reference to all the wrong doing that the Senator from the first district did. And the only thing that the Senator did from the first district along with other Senators that John Harris was around the State House and lobbying and the Sergeant at arms caught Mr. Harris lobbying and therefore he was forced to register as a lobbyist either that or he was going to be arrested for lobbying. Now as far as I am concerned what went on and what the Senator wants to reimburse Mr. Harris, Mr. IG&T a phony corporation who doesn't even have a company and in fact who hasn't got a telephone in his office because he can't pay his telephone and is a verdict against Mr. John N. Harris TEPCO of \$7,000 and now the verdict has been taken to court from the Jersey Bell Company when Mr. John N. Harris was in Princeton New Jersey and there was another \$4200 telephone bill taken to court and besides all the other bills he owes. I think its wrong to put onto this bill and I would urge the Senator to put an individual bill on its own merits; but I'm begging this council now please do not let this type of amendment be tied onto a bill that has been introduced in good faith and I have introduced this without politics being involved. The man is not in my district I put in the bill

because I felt that Clayton was an honest man and has been proven by the Personnel Commission of not doing anything wrong. Please do not let that amendment go on and take action on this bill today.

Sen SMITH: Mr. President, I rise in opposition to the motion to make it a special order. I think this is the first time that I have been in the Senate that I have risen in opposition to such a motion. And it is not the motion that I rise against but against the reason for it. If this motion were withdrawn and introduced by another Senator I would support it. But I cannot support it on the basis in which it is introduced. In Senate Finance this session we are considering a bill which will set up a board to deal with claims to the State or against the State and take it out of the legislative hands. Last session we limited the power of sovereign immunity for the towns. We are considering now as I have said, this bill which would take the claims out of the legislative process because the courts have indicated that we basically are not doing a very good job at adjudicating claims and I think this is an example and this is why the courts have insisted upon it. We are not at the present time in this debate looking upon the Clayton Osborne claim alone. And I think in any kind of a process of this nature we should on a claim alone. We have muddied the waters by bringing in the discussion of another claim and that is not a matter which should be addressed by an amendment. If there is another claim, any Senator has the opportunity to introduce a bill and bring a bill in so that that bill may have a hearing and it will be then acted upon on its merits. Therefore, with deep regret I rise against the motion as it was stated for the introduction of an amendment dealing with an entirely different matter.

Sen. DOWNING: Senator, did I understand you correctly in your early remarks that you were in opposition to the pending motion but if it were withdrawn and made by another Senator you'd support it?

Sen. SMITH: If it were made by another Senator for the purpose of having it studied and giving him time to think about the Osborne matter but I would certainly hope that no claim or no other action relative to any other claim whether it be Mr. Harris or some other person be acted upon on this bill.

Sen. BERGERON: Mr. President I arise in support of the pending motion completely irrespective of anything else that has been said here this afternoon having to do with TEPCO or

anyone else. I rise specifically on the basis that I inquired about this matter, I knew exactly how I was going to vote based on the information I was given. This afternoon in your committee reports I was given information that was completely contradictory to what I have been originally told. On that basis it would have a material effect on whether I supported the bill or voted in opposition to it and I would ask that you give us some time so that we can find out what the true story is.

Sen. HEALY: Mr. President, I rise to offer a question to Senator Downing. Senator Downing would you yield if I proposed a motion to study this question further? Let's say several days simply because I am a new Senator here and I know nothing about the background of this other Mr. Harris in the research case. I would be willing to offer a motion that this be continued for further study.

Sen. DOWNING: Senator, the motion pending now would make this a special order of business for next week in effect that you could continue studying until it came up again. I don't think you'd really want to make a motion to hold it for further study unless you want to move to recommit it to the committee. If it was senate committee they'd like to reconsider the matter, the question in total again I'd be glad to submit the recommendation of the amendment to the committee for their consideration. I would support its recommittal to the committee. I'm inclined to think the body would dispose of the matter through next Wednesday if we just get the support for this request for special order of business.

Senator Bergeron moved the previous question.

Adopted.

Senator Lamontagne called for a roll call.

Senator Downing seconded.

The following senators voted yes: Gardner, Bradley, Bergeron, Saggiotes, Blaisdell, Rock, Hancock, Healy, Sanborn, Provost, Brown, Bossie, Downing, Preston, Foley.

The following senators voted no: Lamontagne, Poulsen, Smith, Monier, Trowbridge, McLaughlin, Keeney.

15 years 7 days

Motion adopted. **SB 47** will be a special order on March 16 at 3:01 p.m.

HB 37, relative to the taking of wild deer in the town of Chester. Ought to pass. Senator Healy for the committee.

Sen. HEALY: I would just like to say in reference to this bill it was submitted to the Senate for a hearing by Rep. Benton of Rockingham Dist. 2 and it has the approval of the Fish and Game Department also it was reported favorably by the committee and they conducted a hearing the Committee on Recreation and it does nothing but make an amendment change to what is already in effect in the towns of Greenland, Newington, Stratham, and the City of Portsmouth. It was pointed out at the hearing by Representative Benton that the Town of Chester was growing very much in the way of residents and population and this was not only a good measure but also one which would guarantee greater responsiveness towards protection and safety among the residents of the community.

Sen. SANBORN: Mr. President, members of the Senate, if the members remember about a year ago, the last session Representative Benton had a similar bill in here relative to taking the deer with just a shotgun or single ball and Rep. Benton mentioned this to me that he made a big mistake he forgot that he left out muzzleloaders and a lot of people like to hunt with muzzleloaders and this is the reason why HB 37 is with us so that people can go out with muzzleloaders and bang away. I hope that the Senate will support this bill.

Sen. ROCK: Senator, I may be confused the muzzleloader bill is **SB 60**?

Senator Sanborn: Oh, no, HB 37.

Adopted. Ordered to a third reading.

HB 4, amending the hunting season for raccoons. Ought to pass. Senator Healy for the committee.

Sen. HEALY: I rise in support of this act HB 4 which was submitted by Representative Hanson of Dist. 5 and has the endorsement of the Fish and Game Commission. At the hear-

ing it was one of the largest I've had the privilege of attending, 100 fishermen and trappers came from all over the State from Coos, Grafton and other counties up north. They all made nice presentations. They pointed out many features about the raccoon and other animals that are being trapped especially the raccoons are gradually being diminished are the fact new equipment being used especially snowmobiles and that's why these trappers who are very much interested in making the raccoon and other animals the object of a commercial hunting rather than sportsmanship. As a result raccoons have greatly increased in price over the past 10 years and the sportsman who at one time would go out, say a trapper would start out in the morning and walk all day through the woods and return with his catch he would be content, happy, but today he said, they are going out with snowmobiles and other equipment and going into their trapping areas and so forth and coming back with many numbers of raccoons and gradually the population of the raccoon is diminishing. Therefore, changes have been made to cut the season of raccoon hunting and also reduce the number of raccoons that can be taken during certain periods of time. This bill after the hearing received the endorsement of the majority of the members I think there was a member of the committee who said she thought it was a good bill but also questions she might have.

Adopted. Ordered to a third reading.

SB 60, relative to the extending of deer season for muzzleloaders under certain conditions. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, the muzzleloaders in the Nashua area requested of Senator Keeney a bill to extend the season and the bill authorizes the Fish and Game director to extend the season by 15 days the taking of deer by muzzleloading firearms. If in the directors opinion and it would be in the best interest of managing the deer herd and the bill further provides that should the director make such decision the notice shall be given within five days of August 1 of that year in which makes the determination.

Adopted. Ordered to a third reading.

SB 72, instructing the commissioner of resources and economic development to erect a commemorative marker on the Hampton harbor pier commemorating the Irving F. Jones family for contributions to commercial fishing. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President the purpose of this bill is to erect the marker in the Hampton harbor pier upon construction in memory of the Jones family who for over a half a century had been involved in commercial fishing. Last month Irving Jones, Sr. did pass away and he was very much involved in the Marine Fisheries Commission. Devoted a lot of time to his industry and on behalf of the State of New Hampshire. There is no funding involved with this. It will either come out of the Department of Resources or be raised privately by businessmen in the area.

Adopted. Ordered to a third reading.

SB 83, relative to wild turkeys. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this bill was sponsored by the esteemed Senator from District 10, Senator Blaisdell, having to do with wild turkeys fully supported by the Fish and Game department that gives the department authorization to establish regulations for wild turkeys and to react more quickly to conserve the amount of them now in the State.

Adopted. Ordered to a third reading.

HB 136, providing for a 3-day nonresident small game hunting license. Ought to pass. Senator Gardner for the committee.

Sen. GARDNER: Mr. President, at the present time we have a small game hunting license which is seasonable for a fee of \$20. This bill would provide for 3-day small game hunting licenses for non residents. This bill is for non-residents at the fee of \$12. There was no opposition to the bill whatsoever. There were some down from the North country that felt this would help the economy of that area and I hope this bill passes.

Sen. ROCK: I think this is an important step as Senator Trowbridge and I have mentioned on many occasions that the upgrading of the merchandising methods of our Fish and Game Department is essential and that we begin acting like we are in the 20th century and this is one way to show that we are aware that there is revenue there. A person from out of state will spend that money for a three day license and I'm pleased to see it get this favorable recommendation. And I hope it passes.

Adopted. Ordered to a third reading.

HB 192, relative to the taking of deer in the town of Auburn. Ought to pass. Senator Healy for the committee.

Sen. HEALY: Mr. Chairman, I rise to say that this bill was fully endorsed by the committee after the hearing and has the support of the Fishing Game Department and it's similar to the other towns, in fact, it's about the same thing. It's just another amendment including the original bill on taking deer as previously presented.

Adopted. Ordered to a third reading.

HB 105, relative to the revocation and suspension of hunting and fishing licenses pending appeal of conviction of fish and game regulation violation and the statutes relative to littering. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. Chairman there are both statutes in Fishing Game Department regulations at the present time related to littering and this bill provides that should a person be found guilty of littering by any court his hunting and/or fishing license would be revoked for a period of one year.

Sen. SANBORN? I understand your explanation in this littering bit if say Senator Bradley on the way home tonight throws his empty cigarette package out of the window, they can take away his hunting and fishing license?

Sen. HANCOCK: No. This relates to areas along streams or where hunters go if they get picked up by the Conservation Officer.

Adopted. Ordered to a third reading.

SR 4, in opposition to the action of the President of the United States pardoning the draft evaders. Majority report—Inexpedient to legislate. Minority report—Ought to pass. Senator Smith for the majority. Senator Rock for the minority.

Sen. SMITH: Mr. President, the rules committee held a hearing on this bill and gave it due consideration, this resolution. I think it was the feeling of the majority Mr. President that this resolution was not a timely resolution, that President Carter during his campaign and I did not support President Carter, and I do not particularly support his actions, but he made it very plain and clear during the campaign what his intentions were and that was to grant pardon to a certain element group of draft evaders. I think Mr. President, that the people of this country elected him knowing full well what he stood for and therefore I think, Mr. President, that this resolution should be defeated because it is a fact which has been accomplished and it is a nonreversible fact.

Senator Rock moved that the words “ought to pass” be substituted for the words “inexpedient to legislate.”

(Senator Saggiotes in the chair)

Sen. ROCK: I must share one thing with Senator Smith and that is that I also did not vote for President Carter, but I think our short lived agreement ends at that point as it pertains to Senate Resolution 4. I for one cannot buy the theory that we had not already made positive steps to allow draft evaders to redeem themselves in this country to the actions of former President Ford. On his first day in office President Jimmy Carter seriously undermined the security of the United States. The security of this country depends on the awareness of its citizens of an obligation to defend the nation when ordered to do so. Mr. Carter chose to grant a full complete and unconditional pardon to all the Vietnamese era draft dodgers who refused to serve their country when they were called. Mr. Cooper Holt the Executive Director of the Washington Office of the Veterans of foreign wars rightly said of that Presidential pardon his is one of the saddest days in the history of our country even surpassing the Watergate case. President Carter will have to accept the responsibility of arming our military in

case of another confrontation with a foreign power. That esteemed American Senator Barry Goldwater of Arizona expressed the same sentiment declaring Mr. Carter's actions "the most disgraceful thing that a President has ever done." I ask the members of this Senate as they consider **SR4** how can President Carter call on other young Americans to serve at the risk of their lives now that he has pardoned those who fled to Canada and to Sweden in order to escape service. I submit Mr. President, that those who fled were not men of conscience, the law provides for the sincere conscientious objector who has religious convictions that all wars are wrong. The draft dodgers pardoned by Mr. Carter were individuals who took the arrogant position that they had a right to determine which wars they would support. Citizens do not have the right to be selective about which laws they will obey. Furthermore the draft dodgers were willing for other young Americans maybe some of your sons or relatives, they were willing for other Young Americans to risk their lives in Southeast Asia. The presidential amnesty pardon is a triumph for the amnesty lobby. Months ago U.S. Representative John Ashbrook of Ohio warned that the American left was pushing for unconditional amnesty and reconstruction aid for Communist Vietnam. The Chattanooga free press in an editorial on this free pardon spoke for millions of Americans when it said "the whole country has been given a bad example. This loyalty has been rewarded, those who serve have been given a slap in the face. As a former naval officer Mr. Carter should have understood the importance of maintaining respect of the concept of service to one's country. A nation cannot long exist if this concept is not understood and revered. And a nation that doesn't impose a requirement for service and uphold the ideal of service to a country is a nation that isn't going to last very long. It is profoundly dismaying and disturbing to me and millions of other Americans that Mr. Carter began his presidency in this manner. The shocking decision coming after the nomination of a conscientious objector Theodore Sorenson to head the CIA which, thank God, has been withdrawn suggest that the American people indeed face grim times ahead on the national security front. The rules committee is a small committee and as a minority of one I speak not only for that minority but I speak for co-sponsors of **SR 4**. I speak for Senator Monier, Sen. Saggiotes, Sen. McLaughlin, Sen. Sanborn, Sen. Brown and Sen. Lamontagne. I speak for the

members of the American Legion who are still collecting petitions and there are tens of thousands of them regardless of President Carters pre-election pledge in opposition to this movement. I am proud to stand here today also Mr. President and to speak for some other co-signers of this senatorial resolution. The mail that I received on this issue ran 5-1 in favor in support of **SR 4** and I have here the mail and letters from these co-sponsors: (see below)

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Mr. & Mrs. Cornelius F. Schenck
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Miss Germaine Pare
33 Gendron Street
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Barry Malburne
RFD # Box 118A
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Annie E. Ellsworth
134 A Amherst Street
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26 Hooker Street
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Gosselin Road
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Mrs. A. J. Houlihan
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Dana Barnes

Duane Pelletier

Ms. Maude F. Sterndale
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Sen. ROCK: I am requesting that these names be entered in the Senator Journal to show that these people supported the actions of the Senators who took the time to Sponsor SR4. I for one will never buy the theory that by doing this act on his very first day in office the President would well have it behind him and not have to face his action. I could never face a prisoner of war, a purple heart veteran, a foreign wars veteran and say I did not take this stand regardless of the outcome in the Senate vote today. I urge that the minority report be substituted for the majority report.

Sen. HANCOCK: Mr President. I would like to speak against Senator Rock's motion and in support of the committee report. There were many, but in large part I think we are indebted to the draft evaders for bringing to their senses the decision makers in the executive congressional braches of our government. In a war which was undeclared by the congress, run principally by presidents of both parties and the CIA, it was the insistence of these young men which focused attention on the futility and the American beastiality of military action in Vietnam. In my opinion we are indebted to draft evaders for hastening the day of total recall of all our troops in Vietnam and I believe that President Carters position should be supported.

Sen. SMITH: I rise in opposition to this motion. It is true that I have not served in the armed services. I was drafted during the Korean conflict and was found to be 4-F. There isn't a day that goes by however, in my life when I don't remember a friend who I grew up with, there isn't a day I don't remember knowing him. He and I grew up, went through grade school and high school together and he went off to Harvard to college and in 1951 he graduated from Harvard.

Shortly before his graduation he was accepted to Harvard law school; but shortly before that he became so concerned about the Korean situation that he enlisted in the Marine Corp and in the officers training corp. He went to Korea, was wounded twice went to field hospitals and returned to action as a platoon leader and to this day, Mr. President, he is missing in action. Now this was a traumatic shock to his parents. It was a great loss of a friend of mine. Mr. President, earlier this session I rose under personal privilege and attached a cartoon in the Manchester Union Leader which talked as the New Years resolution of love, your friends a little more and love your enemies a little less. I contend that this resolution is an exemplification of that philosophy. As I've indicated earlier I cannot agree with what President Carter did in his pardon. I don't think if I were in his shoes I would have done it. I don't think, Mr. President, this was the right thing to do at that time and yet Mr. President he campaigned on that very issue. Vietnam is not a war, it's a conflict. And Vietnam is the most decisive period in American History since the Civil War. This resolution, Mr. President continues that decisiveness. Over the history of this republic, there have been 37 general pardons granted by either the President of the United States or by Congress. The first one was issued by George Washington to those persons who took part in Shea's Whiskey rebellion. Lincoln, during the Civil War, during the heat of conflict granted 4 pardons. Carters action basically involves the pardon of 4,500 draft offenders. There have been over one hundred thousand in total who have evaded the draft or deserted but this pardon was concerned with 4,500 individuals and unlike Shey's rebellion and unlike the Civil War, those people who left this country in opposition to the conflict in Vietnam did not take arms against the United States as they did in the Civil War and in Shey's rebellion. I think that the Vietnam conflict was a tragedy in American history and George Washington in his farewell address warned this nation against entangling alliances and I believe that the Vietnam conflict is a prime example of an entangling alliance. It came about in the very beginning in the Eisenhower administration and it was beefed up again in the Kennedy administration, it got worse in the Johnson administration and then in the Nixon administration it was finally terminated. War terminated. War in this republic must be supported as our consitution says not only by the people but by the Congress of the United States

and in effect there was no declaration of war. Maybe those deserters or draft evaders who left, maybe they gave a message to the leaders of this country that we should not, that those future leaders of this country should not become involved in an alliance with other nations and continue a war or conflict for the purpose of saving face. I am not sympathetic to those and was shocked by the ones who left the country, but maybe they, in the whole total picture of American History perform a service to this country by making us wake up to the responsibilities which we have for the guidance of this nation and make our leaders wake up to that fact. I hope that the Senate will defeat this resolution. I think that we in this Senate could be a part and continue to be a part of the healing that this nation needs and rather than to continue the divisiveness. I have mentioned Abraham Lincoln and I would end by quoting Abraham Lincoln who was a republican president who in his second inaugural address during the heat of the Civil War closed that address with the following quotation "With malice toward none and charity for all with firmness in the right as God gives us to see the right let us strive on to finish the work we are in to bind up the nations wounds to care for him who shall have borne the battle and for his widow and orphan to do all which may achieve and cherish a just and lasting peace among ourselves and all nations." Thank you Mr. President.

Sen. SANBORN: Senator, I was interested and your speech was very well made, however I'm a little bit vague in one point. Did I understand you to say that the war is declared by Congress?

Sen. SMITH: That is correct.

Sen. SANBORN: I'm a little bit vague on one other point I can't remember the year when congress declared war in Korea can you clear me up on that?

Sen. SMITH: No I can't and that's why, Senator, it was a conflict.

Sen. SANBORN: Didn't the president at that time call it a police action?

Sen. SMITH: That is correct.

Sen. BRADLEY: Mr. President, one of my earliest childhood memories probably because I have never seen it happen before was my mother crying one morning when I was probably about five or six years old and when I asked her why she tried to explain that she had just said goodbye to her second son who went off to the Second World War. I have four older

brothers. There are five boys in my family. We have all served in the service, the older brother saw combat and fortunately came home safe and sound. The rest of us didn't see very much combat. After giving a great deal of thought I really feel that the appropriate action is to defeat this measure and there are many reasons that come to mind but just let me touch on two. One of the problems I have with this bill is that I think that in a way the real issue is not spoken to in the bill, the real thing that we are struggling with and that is the question of the validity of the Vietnam war whatever you want to call it. In a way I think we are being asked to vote on whether or not the Vietnam war was a mistake and I have no problem in my mind in thinking it was a colossal mistake and I somehow feel that the proponents of this bill are attempting to prove that it wasn't and that's one of the reasons I have difficulty in voting for it. The other trouble I have is with the concept that by granting this pardon we will not be able to depend on future generations to fight a war if that is what we have to do. I conceive that that does have to worry one; but the more I think about that, I don't think that's enough for me to support it because balance against that concern is the fact that I do think that probably the pardon will have over balancing benefits of healing in the country. Now, if another war came along, another Hitler came along there was no question but what there was a war that should be fought. I don't think the young men at that time will be able to choose lightly whether or not they are going to fight. I don't think our citizens should have the right willy-nilly to decide which wars they will be willing to fight. But the fact that President Carter has pardoned somebody today, the Vietnam conflict, does not seem to me to give a license, hopefully never if the question comes up, if five, ten, twenty, years in the future that does not give license because there is no way the young man or young woman at that time to know they would be pardoned if they were to choose not to fight in a war. For those reasons, Mr. President as well as others that I won't go into I think on balance it would be better not to pass this resolution.

Sen. JACOBSON: I believe that you said that the issue as you see it is the war itself and its resolution. However, speaking not as a lawyer, but addressing a lawyer is not the issue whether or not you evaded the draft law?

Sen. BRADLEY: What I meant to say and probably didn't say very well is that I have the feeling that what the propo-

nents are trying to do by the resolution is to somehow to say the war was not a mistake. To the extent that one therefore votes for the resolution I think it's a statement to that effect and I'm not willing to make that statement because I have concluded that the war indeed was a terrible mistake.

Sen. JACOBSON: Speaking again as a layman and addressing myself to a lawyer, would it not also be possible to view this resolution and the action of the President as simply a problem of law specifically with regards to the draft law?

Sen. BRADLEY: One can view it that way, yes.

Sen. JACOBSON: Is it not true that the draft law which the evaders evaded was present before President Johnson escalated the war in 1965 and was also present after the war, the same draft law?

Sen. BRADLEY: I think that is right.

Sen. JACOBSON: So then it would be possible to excise the war and consider it as a problem of obedience to law?

Sen. BRADLEY: Yes. I think you can look at this resolution on those terms if one chooses to.

Sen. JACOBSON: I'm not sure how much you know about legal history, I'm sure you probably know a lot. Now that's a double statement and I said the second statement after you smiled, but one of the things that intrigues me is that prior to the establishment of our constitution almost all governments were based upon the right of the king or the right of the baron and so forth and so on and we made that great leap forward that law was the great principle and obedience thereto is what makes our government stable. Is that a correct analysis of our evolution?

Sen. BRADLEY: That is a correct analysis and if you are not going to ask me another question I would like to follow that by saying that built into this wonderful constitutional form of government which we have, in contrast, to earlier forms of government part of our laws is the power of the president to pardon when in his judgment it is appropriate. So there is nothing which is contrary to law in what he has done. The problem on my mind was it a good judgment on his part and I'm not willing by this resolution to try to say that it wasn't.

Sen. JACOBSON: When that constitutional proposition was inserted into our constitution, I believe that the framers of that constitution intended that the pardon should be made for two purposes. One purpose would be if a person was con-

victed and found to be not guilty. Is that not correct?

Sen. BRADLEY: That would undoubtedly have been one of the things in the framers minds.

Sen. JACOBSON: And that the second purpose was that in the event that the person was found guilty and given a punishment that was deemed to be at some later date to be a cruel punishment that this would allow an immederation?

Sen. BRADLEY: That was probably also part of the original intent; but it is my understanding that from the research that I have done on the question of the pardon when the pardon was granted to President Nixon, I had some research done for me that the courts have found based on what the courts understood to be the original intent of the pardoning clause is that the pardoning power of the President is virtually absolute and could cover unspecified crime, future crimes, past crimes, any crimes so that I do not think that the framers intended the pardoning power to be limited only to the two examples you gave.

Sen. JACOBSON: So that what you are saying is that the pardoning power is of such a nature that it can pardon people that have in fact committed crime before there is in fact a trial.

Sen. BRADLEY: That was clear from my research.

Sen. TROWBRIDGE: Senator Bradley, carrying along Senator Jacobsons concept of obedience being part of our process, would you not say that there is in our process and been demonstrated that certain times it is the right and power of the citizen to desent against a law and that perhaps although not a noble experience with the Bolstead Act and some of those being the kinds of things and other places where citizens desent knowing the consequence is part of the law?

Sen. BRADLEY: That's right. My scheme of values one has and I believe within our constitution framework one has the choice of disobeying the law if he is willing to pay the consequences and again I tried to make this point, but I didn't make it very well and I think that anyone in the future who chooses not to obey the draft laws, has to take the consequences which may well be that he will go to prison or have to leave the country and not come back what even he will, and unless there is a president who is willing to make the political gesture which it has to be, and maybe he can get elected on that as an issue, unless such a President comes along he's going to pay the consequences indefinitely of this.

Sen. TROWBRIDGE: Those who evaded the draft do you

not believe that one of the consequences that they knew at that time when they evaded was that they would probably have to live in exile for the rest of their lives? Is that not a consequence?

Sen. BRADLEY: Yes it was certainly.

Sen. JACOBSON: I was a little astounded at your last remark in point of fact there was an alternative to exile was there not? As provided by President Ford? And under the leadership of the former United States Senator from New York?

Sen. BRADLEY: Well, as I understood Senator Trow-bridges question, the person who chose to disobey the draft law at that time and who was willing to pay the consequences had to realize that one of those consequences might be living in exile. Subsequently after that time, indeed President Ford did establish a program that might have let men come back under certain circumstances. I don't think my answer was inconsistent.

Sen. JACOBSON: On the question of dissent, has it not been the classical format that you indeed have the right to dissent. For example I may refuse to pay my income tax and I then can suffer the consequences. Is this not then a question of that it is possible for a.) to evade law? But its not possible for Mr. B to evade law too?

Sen. BRADLEY: Well, I'm not sure of the question. I'll try to answer it this way. If A evades law one and ultimately is pardoned for that and B evades law two and is not pardoned the results are obviously different. But those difference of results in my mind are part of our constitutional system and part of our system of law.

Sen. JACOBSON: Does this not then ultimately create a class of special citizens?

Sen. BRADLEY: No. Not unconstitutional though. Obviously the results are different; but again as I tried to say before, it seems to me that given the power of the President to grant pardons whenever he grants a pardon it creates a new class. But he has to bear the consequences too of his act.

Sen. MONIER: Mr. President, I rise in support of Senator Rocks motion and I have some prepared remarks but I have to make a few commentaries. Senator Smith commented that this was a way to give a message to the leadership of the United States and I'd like to remind Senator Smith there is already a way for people to give messages to the President or

any other leaders. It's called democratic processes. It means elections. It does not mean desertion. It does not mean evasion and I might add that it doesn't hurt or take away from the values of the country when you do it. I also would like to point to the fact once again it happened to be Senator Smith who brought up about pardons or evasions or amnesties prior and he quoted Lincoln I think I would like to add to it however that Lincoln's pardon to the Union's deserters which was given during the Civil War as was stated by Senator Smith also had a condition on it. The condition was that those who returned to duty within 60 days and to serve an equal amount of time to their original term of enlistment. So it was not just a similar amnesty or draft. With that I'd like to lead into the simple fact that there has never been a previous presidential amnesty or pardon which has been given for the purpose of draft dodging or deserters in a blanket form of any sort. For example President Truman 1952 in his Christmas amnesty went to those who had deserted in peace time from WWII to the Korean conflict. It did not involve those currently in the status of desertion or evasion at that time. 1954 and 55 President Truman again gave pardons to about 1500 people I mean 15000 I might add which were however once again recommended by an amnesty board for draft evasion and none were given for desertion. President Coolidge after WWI granted amnesty to about 100 or some odd men who had deserted their units after the armistice not during the war time or conflict period. None for war time draft dodgers or deserters at that time. F. Roosevelt and I'm doing this on purpose because it is not part of an issue and I want to make that point very clear as far as I am concerned. F. D. R. during his tenure following up on the WWI personnel granted pardons to about 1500 people who were violators of the espionage draft laws of a variety of natures during that time but who had completed their sentences as had been adjudicated in a court system either in the military or in the civilian life and Lincoln himself had granted those pardons to the Civil Union persons who went back and served. President Andrew Johnson himself offered pardons after the Civil War and allowed those who had deserted the Union to surrender by a particular date and return to their military duties without punishment but with forfeiture of pay and to maintain the same amount of time in the service that they had evaded from. President Madison in 1812 for example pardoned some deserters who had been in absent without leave or in desertion at

that time within a four months period who returned and served an additional period of time. Let's be clear about it. There has never been a blanket amnesty such as has been presented in this particular case. I do agree and I changed myself the resolution. This is not directed at President Carter even though he is the one who took the action. It is not I might add a matter of whether we agree to the Vietnam war or did not agree with the Vietnam war and I'll state publically I did not agree with the Vietnam war. I am one of the proponents of this. I think it was a useless, wasteful loss of people not for the same reasons as some of you are not supporting this resolution would agree with but for simple practice that we've never had a win policy and for any nation including our own to go into a war with a no win policy is a stupid activity. That does not excuse the action that was taken by those who left because I'll be very frank with you I don't think the Korean war was a very successful war either and regardless of whether we go into the definitions legally as being a conflict or not I can assure you that there were many of us who were injured very badly in that particular war. I've said before and I'll repeat again, to me the action taken by the President regardless of whether it was a campaign promise or not and I might add I think he was very politically astute to do it at the beginning of this thing because by that time the hot water from it might well come down somewhat. But to me as personally and thats the reason why I am one of the sponsors of the bill it is an insult to every veteran that is living and dead who has ever served this nation without any question in my mind. It weakens the general resolve of our country of both our people and our values with respect to defending our freedom or our way of life. It's implications if we were to apply them across the board to any national crisis or individual crisis as far as I am concerned are absolutely horrendous. None of our citizens would have to support the good of the whole because disobedience or individual conscience or individual freedoms take precedence no matter how loosely applied. That to me does not mean any kind of semblance of constitutional order or government. I don't believe and I disagree with those that have spoken otherwise that in our nation now can call upon a citizen with the same effort and same effect as it did previously to defend our liberties, to back our national goals, to support our democratic decisions and for that matter to protect any one of our rights since each of us in a sense have been given here a

license or a ray of hope authorizing you to make your own decision. Whether they abide by the decisions in due process or whether they are for the good of the whole or not. To me the rightness or wrongness of this Vietnam conflict is not the issue. I said it before and I'll say it again. The issue involved as far as I'm concerned is for our survival as a democracy rule of majority and a free society. As far as I'm concerned this is a personal opinion and I'll only make one other comment to it and its with respect not to who said it but what was said. As one of the proponents of this the attempt was not to justify the Vietnam war one way or the other.

Sen. SANBORN: Mr. President, members of the Senate, I will try to be very brief. I think that Senator Rock, Senator Monier have both covered most of my statements completely and especially the last sentence of Senator Monier where he said that in no way does this resolution written or did I co-sponsor it for saying that the Vietnam war was justified. However, I would like to remind the Senate that once in a while at noontime I go across the street over here and have a sandwich and when I come back down this corner of the mall there is a stone and I can't help look at that stone once in a while because I see such names as LaPlante, Stan Johnson, Lee Hall, and a good many others that I recognize because nearly half the names on that piece of granite down there were classmates of mine here in Concord Senior High School. They never returned from World War II. There are a good many more down there that attended to a police action, not a declared war, but a police action in Korea. I had a very good friend in Warner and his name was Eddie Cough; he is still one of the bodies on board the Arizona. Now he answered his country's call just the same way as Lee Hall did or Stan Johnson. I see no reason why these deserters, and I call them deserters not draft dodgers, can't be considered as criminals just as much because they created extra bodies in Vietnam. I do say one more thing. There was a president not too long ago who during the Vietnam conflict made a statement at his inauguration. It was "Ask not what your country can do for you but what you can do for your country" and these draft dodgers evidently didn't hear the president at that time.

Sen. BOSSIE: Senator, you made reference to several of your classmates who died in World War II with Germany and Japan and Italy. Have you forgiven the people of those countries?

Sen. SANBORN: Not entirely.

Sen. BRADLEY: Senator Sanborn, isn't it correct that the pardon we will be bringing to this resolution only extends to people who are, in fact, draft evaders and does not extend to people who are in the service and deserted the service?

Sen. SANBORN: That is true, Senator, but however I spoke in my own personal opinion that they are as much deserters as one who left the ranks.

Sen. ROCK: Senator, there seems to be some matter of semantics involved here. You referred to the word deserters of your question by another senator. Would you share with me the feeling that these people who ran away in their country's need who left the country might also be termed cowards?

Sen. SANBORN: I would definitely call them cowards, deserters and criminals.

Sen. DOWNING: Mr. President, I rise in opposition to the pending motion and support the majority of the committee report. I wasn't surprised to learn today that not all members of this body supported the election of President Carter; however, I would ask those who did not participate in that way to kind of ignore the following comment because I want to address myself to those who did support President Carter and I'd like you to know that a feeling that comes out of your action here today, and this is an attorney representing the Governor who testified before our committee on this resolution, and he said the resolution that is pending before this committee should be passed and its content should be sent to the President so that he will know that the people of this state, to whom he once looked for support in his presidential campaign, now protest his action and in this respect, at least now regret that support. Now I offered to you that as a supporter of the President that you could have supported the President, continue to support the President and still disagree with the pardon of the amnesty, but you must consider how some people might interpret your support for this resolution. I thought it was very important to just remind you of that and call it to your attention. I'd like to address myself to the resolution itself. I think it is defective. You know we've had some very eloquent talks given today relative to for and against amnesty or pardon or whatever you want to term it. And really these are the moments I really enjoy the Senate the best because I think the Senate at its best whether I agree with

you or not. When you have strong feelings and you voice them here on the floor its really a great experience for anybody here listening. The document here itself you are being asked to vote on I feel is defective Now this isn't one of us speaking our own opinion it's not one of us reacting in an emotional way to something that you know we feel strongly about for or against, this is the New Hampshire State Senate going on record as opposition relative to something that was done. For example this has a statement that says the pardon contradicts the principle that we are a nation of laws. It doesn't contradict, it reinforces it, where does the President's authority come from to do such a thing? And if you want to talk about laws I sat as a member of the Selective Service Board for a number of years and I don't think the law was administered fairly in all instances to some of those people, and I don't think everybody was unjustified in resisting those laws. Another statement, it is an affront to every veteran living and dead. Members of the Senate, there were veterans that came before the committee and testified in opposition to this. So now it isn't merely a distortion it's an outright untruth. Every veteran doesn't feel the same way in this. Every veteran does not consider it an affront. There are veterans that oppose it and yet you are dealing with a resolution here that will say this Senate should go on record as saying every veteran considers it a personal affront. It simply isn't true. Each of us is now authorized to make his own decision oblivious to the effect on the whole. Well, how many in this chamber feel that that's true? How many of you, feel that you're now authorized to make your decision oblivious to the effect on the whole? How many of you? Again, it simply isn't true, it doesn't represent the facts. It assures that we never again can depend upon our citizens to put forth their full effort to defend our liberties. Now again, how many of you can't we count on for a full effort to defend our liberties. Well, your part of the citizenry that this refers to also; it's an accusation of you, its an indictment of your attitude. It doesn't single out only those who support the President's action, it indicts every single one of you. Now how many of you are not going to respond to your country's need when the time comes. I expect all of you will respond and I would expect that none of you could really support this document with statements like that in it. Somehow we tend from time to time to remove ourselves from the citizenry by this, it doesn't affect us, it's the other people. We are

a part of it, that's all of us, its a statement about yourself and your own attitude and it is a very important statement and it is going to the Secretary of State, its going to the members of the Congressional delegation, it is going to the clerks of the United States Senate and the House of Representatives and it's going to the President of the United States that this in fact is what the State of New Hampshire, the Senate of the State of New Hampshire believes regardless of how you feel about amnesty or how you feel about the pardon. I don't see in any way how you can support a statement that at best, at very best is a gross distortion and a misrepresentation of the facts and I would expect on that basis that even the sponsors of the bill who originally could have emotionally responded through this vehicle to a situation he disagreed with would now reconsider in light of the fact that when you analyze the statement thats before us and you recognize what a distortion it is, would withdraw your support knowing full well that your particular feelings are on the record. Thank you Mr. President.

Sen. TROWBRIDGE: Senator Downing, as you say on some of these issues our best comes out and I believe your best has been done. I do have a question, however, I think its important, one that has not been brought out today, in the testimony before the committee, the rules committee, how many Vietnam veterans, people who actually saw service in Vietnam, not during the time of Vietnam but actually over there how many of those supported and how many of those were against this resolution.

Sen. DOWNING: Senator, I don't know what it was the veterans that testified before the committee, it wasn't a very busy hearing. There were not very many people there. There were sponsors, a representative of the Governor, a couple of people that said they were veterans. One of the veterans was on compensation at that time and is right now confined in a veterans hospital that testified against it.

Sen. TROWBRIDGE: Well, just from the ages of the people who showed up would you say that most of them were Vietnam or would most not?

Sen. DOWNING: I would say the Second World War and the Korean War and possibly the Vietnam war, but its just a guess.

Sen. LAMONTAGNE: Senator Downing, did the American Legion go on record as being in favor of this resolution?

Sen. DOWNING: Senator, I believe and maybe it was yourself that gave testimony relative to the American Legion being in support of the resolution and also I think a DAV chapter and possibly there was a reference to the VFW as well, but those were individual chapters, Senator. I'm a life member of the DAV and Charter of Commander of Chapter 25. The important thing is the support and initiative for this, I think, came as an emotional response to a situation that people disagreed with and were frustrated by but the instrument that we actually have to deal with is not a truth.

Sen. LAMONTAGNE: Senator, doesn't the record show that I was asked by Hubert O'Neil who is the American Legion secretary for the whole State of New Hampshire representing all the different branches of service that they were in favor of the resolution? At the same time, didn't I point out to you that the secretary of the American Legion asked me to go there on his behalf because of illness?

Sen. DOWNING: Senator, I can best respond to that by just reading what we have for statements in the minutes. I strongly support this resolution at the same time I join with the feelings of my other colleagues in support of this bill. I also have been asked by the American Legion to put them in favor of this bill as Chairman of Legislative Committee of the VFW post 2520 of Berlin I would like to list them as being in favor of this resolution. I also want to place the White Mountains DAV in favor.

Sen. LAMONTAGNE: That is correct. Would you feel that American Legion of the State of New Hampshire didn't have time to read the resolution and to understand it? Is that what you are saying?

Sen. DOWNING: Senator, I would say that would be a very accurate statement in view of the fact that I hadn't seen the resolution until that day of the hearing. It was never printed. In fact, it was changed from one thing to another, from a joint resolution to a Senate Resolution never seen printing or never seen the light of day as far as I can tell so if they had read it they've got some magic formula they ought to pass on to us. We could use it.

Sen. LAMONTAGNE: Well I don't understand it because I'm sure the resolution was read, and I'm sure the American Legion understood what it was all about.

Sen. ROCK: Senator, you made the comment in your eloquent remarks that indeed a veteran appeared in opposi-

tion, could you tell the Senate how many veterans appeared in opposition?

Sen. DOWNING: There were two, Senator.

Sen. ROCK: Am I correct in that one of them was Representative Daniell?

Sen. DOWNING: You are correct Senator, and also I don't think that there were many other people other than Attorney Bigalow that appeared in unison with the sponsors of the bill in support of it.

Sen. ROCK: Is it true Senator, that in referring to this resolution that the veteran that you were referring to made the comment and I'll quote it from the minutes "I do want to say that I think you make a big mistake if you think either the VFW or the American Legion speak for the veterans of this country and further he stated I've been in these organizations long enough to know that if you take away the booze and pensions neither organization would exist today." Did he not say that?

Sen. DOWNING: Yes, he said that Senator, and I think he later went on to explain that remark when he was challenged by one of the sponsors of the bill and I think it has been substantiated to by at least some people that there were more veterans that do not belong to these organizations than do.

Sen. ROCK: Since you made it a point Senator in siding with that opponent do you share his opinion in his quote "that if you took away the booze and the pensions neither organization would ever exist today"?

Sen. DOWNING: I do not share that opinion. I don't think that his clarification of that opinion left it stand quite the way it sounds as you read it there Senator.

Sen. ROCK: Did you question the quote Senator?

Sen. DOWNING: No I didn't question the quote Senator, I just question your lack of following up with the additional explanation after the quote was challenged.

Sen. ROCK: Is it not true Senator that the chairman of that committee took strong exception to the remarks called them uncalled for? and out of order?

Sen. DOWNING: No. I think the chairman and co-sponsor of the bill did take exception.

Sen. LAMONTAGNE: Senator, can you tell me whether or not you are in favor of these cowards coming back to this country and collecting welfare?

Sen. DOWNING: Senator, do you want to deal with the

resolution or do you want to deal with my personal philosophy of things?

Sen. BLAISDELL: I'll be very short Mr. President, I guess there has been enough hay made with this by some of the people. President to whom the world as well as the American people look to for moral leadership in the next four years, had the courage to extend a pardon in the face of predictable opposition in the interest of national unity. Early in his administration President Ford also displayed courage when he granted a pardon also in the face of predictable opposition and also in the interest of national unity, therefore; I hope we can recognize that many loyal Americans could not find it in their heart as a matter of conscience and principle to support an undeclared war. Now that we are at peace and I guess I might have to worry about that now after this debate, I say lets forget it. Lets forget about it and dedicate ourselves to dissolving rather than perpetuating our differences. We face a period of great peril and many dangers in which we can never afford to undermine the prestige of our national leadership by an action that will reverberate through the world to our cities and our villages. I will close in a second but I want you to know that my father died at the age of 45, one of the finest persons I've ever met. He died because he served in World War I and I can name the medals he earned. My two sisters and myself and my mother worked very hard because my father could not work because his lungs were gone and he was gassed, wounded and shell-shot. The one thing that I thanked God for that he left with me when he was 45 because he died when I was in Shanghai, China aboard the USS St. Paul. He gave me compassion and he taught me forgiveness. As a responsible member of this Senate, and I consider myself a responsible member of this Senate, and a veteran of WWII and no one can ever question that I'm a loyal American I will oppose this resolution and I urge my fellow members of the Senate to do the same.

Sen. SANBORN: Senator, I was interested you made the statement that President Ford granted amnesty to which I agree but weren't there certain strings attached to that?

Sen. BLAISDELL: Yes, there were Senator.

Sen. SANBORN: Were not the strings similar and equal to those that were granted by President Truman?

Sen. BLAISDELL: Yes they were Senator.

Sen. SANBORN: Can you tell me what those strings were?

Sen. BLAISDELL I guess each case, it was based on individual case thats one of one of the reasons Senator.

Sen. SANBORN: That in each case the desire to come back would be judged by a group appointed by the President on its individual merits, is that right?

Sen. BLAISDELL: Thats right Senator.

Sen. POULSEN: I arise in strong support of the resolution and Senator Rock's motion ought to pass. It has been mentioned that the action of the draft dodgers was, in effect, a protest to the President and I think what we are doing here and if we condone what they're doing I don't know why in the world we can't condone this type of much more legitimate protest to the President. Thats all I have to say.

Sen. DOWNING: Senator, do you feel now that you're authorized to make your own decisions oblivious to the effect on the whole?

Sen. POULSEN: I certainly make my own decisions.

Sen. DOWNING: Senator, do you feel that your country can no longer depend upon you again to put forth your full effort of defense of liberties in this nation? Do feel you can no longer be counted on to to put forth your full effort to defend our liberties?

Sen. POULSEN: Did I say that? I agree with the resolution certainly.

Sen. DOWNING: Would you say that statement applied to yourself? That you can't be counted on to give full support and defense of our liberty?

Sen. POULSEN: I think this Senator, I think that the attitude this will create in the people who are of draft age and draftable will have a doubt in their mind whether the draft is for real or for fun.

Sen. DOWNING: Do you feel then you could be counted on then for your full effort?

Sen. POULSEN: I always give my full effort, Senator.

Sen. JACOBSON: Mr. President, I arise in support of the pending motion and I want to make my reasons very clear. The first reason is that I was totally opposed to the Vietnam war in any way shape or form and I am on the record, public record as being opposed to the Vietnam war. Secondly I believe in the law. I do not believe as Senator Bradley that this is an affirmation of the legitimacy of the war. I believe in the law in this particular instance because I believe that the pardon authority granted under the constitution was misused; be-

cause as our fathers who founded this country provided for, that the pardon was to be exercised at those times when no other alternative was available. Now, there was an alternative available for every draft evader under President Ford's program. Secondly under President Carter there was an alternative available. It could be handled as Senator Monier has historically delineated through the normal processes of case by case. It could have been done by two's or one's or ten's or twenty's to evaluate each case and maybe each case could have been evaluated as pardonable; but that process did not take place. So that I believe that the law ought to be upheld. Every law. Now it is true that every citizen has the right of dissent and I would stand up for the right to dissent of every citizen it is also true that anyone who does dissent then must take the consequences of what the law states. It was mentioned here in the history lessons we've had today about Shea's Rebellion. Now Shea's rebellion took place in 1786 in western Massachusetts. It was a protest movement against the banks for closing mortgages and the question of inflation and the inability for the farmers of western Massachusetts to pay their bills and they went out and marched and the militia army under Benjamin Lincoln from Massachusetts went down and put the rebellion down and afterwards there were men who tried and found guilty and when our country became a nation they were ultimately pardoned; but in that instance and in every instance as Senator Monier said there had been a due process of law using up all of the alternatives, before the pardon was executed. I'm not so concerned about the wording of the resolution because all resolutions and all protests tend to hyperbolize and that's part of the nature of the protest movement one way or another; but I want to stand here and say that I believe in the law and upholding the law and when I make an error in the law, I expect to pay whatever the penalties may be if I am judged guilty. We just had a debate earlier here this afternoon with regards to Mr. Osborne who went through certain processes of the law and was found to be not guilty of those charges that is the nature of the kind of life in which we live and if we do anything to minimize that basic foundation stone then I think we are moving in the direction of allowing persons, people whether it be Presidents, kings, emperors whatever it is to make the law for us. It is on that basis and on that basis alone that I support the resolution.

Sen. BOSSIE: Senator, the question I am going to pose to

you is based on your good nature and the fact that you have been trained I suppose in a ministry, I'd like to know in opposition to what Senator Sanborn said that he hasn't quite forgiven the Germans, Japanese and the Italians for some of their conduct of some of their people during the second World War, I would presume that you have forgiven these people, have you not?

Sen. JACOBSON: Senator, I have the high privilege of serving in the United States Marine Corp I have not intended to give any biographical sketch today I did have that high privilege of serving in the United States Marine Corp and the Marine Corp assigned me to Japanese language school and upon graduation from Japanese language school out of a class of 41 only 6 graduated and I happened to have that high privilege of being one of the graduates. I was assigned to JICPOA, joint intelligence corps Pacific ocean area and I spent most of my military life with the Japanese and they became my friends. We had good conversations and it is a question of compassion, the war is over with respect to the enemy. It is not a question of law in that instance.

Sen. BOSSIE: Would it be fair to say that you have forgiven the Koreans and subsequently the Vietnamese for any atrocities they may have committed against us?

Sen. JACOBSON: Well, I would say that the United States Military service probably committed as many atrocities against the Vietnamese as they did against us. I was not in the war but I am perfectly willing to accept the Vietnamese.

Sen. BOSSIE: Senator, if you're so willing to forgive our former enemies, then why can't you find the decency in your heart to forgive those that belong to us and have made a mistake. We are all willing to admit they have. Can you not find in the decency of your heart to say, gee you did wrong but I forgive you, as President Carter did.

Sen. JACOBSON: Oh, I have personally forgiven them long ago; all my concern is for the exercise of the law. The other illustrations that you have said do not concern the American constitution and the American law.

Sen. BRADLEY: Senator Jacobson, if this pardon was contrary to the law, don't you think in view of the fact as I understand it that about 50% of the country are opposed to the pardon and given the great heat that has been generated by the opposition that someone would be in the courts challenging the legality of the pardon?

Sen. JACOBSON: Oh no. What I said was that I believe that the exercise of the pardon authority which the President has, was in violation of the intention of what the pardon was for, because it was for the intention of finding some means when all other legal means were exhausted. Incidentally Senator, I was also publically on the record against the pardon of President Nixon by President Ford for the very same reason.

Sen. BRADLEY: Even though you keep telling us you are not a lawyer, you should know the answer to this question and that is if you are right that the intent of the framers was that the pardon power did not extend this far. The pardon power extended to other things, then wouldn't it be true as a matter of constitutional law that the pardon would be unlawful contrary to the constitution and couldn't you therefore not go to court and get a court to declare illegal against the constitution?

Sen. JACOBSON: Well Senator, if you're willing to be my lawyer without pay that might be a very interesting constitutional case.

Sen. BRADLEY: Well, Senator Jacobson, would you believe that I, as well as a professor or two at Harvard Law School, as well as a research group at Harvard Law School, researched the question of the extent of the pardon power at the time of the Nixon pardon and concluded that you were wrong in your interpretation of the pardon power.

Sen. JACOBSON: Well I am reminded of John Salisbury who said that more often the majority is wrong and the one is right.

Sen. HEALY: I feel a little bit embarrassed at this particular time because I am kind of tossing humility to the wind, I feel that perhaps I'm the senior veteran here. I served 23 years in the service, 5 years on active duty in Japan. I want my vote understood in no way any partisanship involved. I will endorse the resolution because I volunteered, I've stayed away from my home for a long time. I am a retired naval officer and I think that the motion is not prepared in the best possible wording and so forth but I do want to say the veterans and the people who served their country and did so voluntarily should be recognized too. There were millions of people who served the country in wars too and also in Korea, Vietnam conflict and few people by comparison who did leave possibly did run away I don't hold much forgiveness for them.

And I am very patriotic, being Irish, and that's one of the reasons why I volunteered. When I read about this business, I feel at times the military has changed in World War II and prior wars a man that left service, who departed or took off could be strung up aboard ship, could be hanged from the yardarm or could be shot. As for forgiveness, I can't forgive these men. My vote is nonpartisan and is going to be for the resolution.

Sen. ROCK: Senator, is it not true that the colonel who was the longest prisoner of war in Vietnam has indeed brought an action against the President to the highest court in the land to challenge this work?

Sen. BRADLEY: I was not aware of it. I'd be interested it there was.

Sen. LAMONTAGNE: Mr. President, I arise in favor of the motion that is now pending, in favor of the resolution. Personally, I hold no grudges against the President of the United States, President Carter, but certainly I have the right to speak as an individual also speak as representing the people of my district and my district is well aware of the resolution because the resolution was distributed in my area. Certainly the American Legion and other organizations did get copies and they were aware of it because I made my copy that I had as a sponsor available. I personally feel that anyone who has fled the country, and as far as I'm concerned I consider him to be a coward and let's thank God that we had many many men in many wars like the father of Senator Blaisdell; because if we didn't have men like him and many of them who have returned back from the battlefields, and were not there to defend the American people that I feel sure that if everybody was the same as those that deserted their country and become deserters and if we had the wars here on our land as I have seen the war in other lands and the people of overseas having more experience because they have lived with wars all their lives. Thank God that the American people since WWI have never seen a battle here in America; because just one bomb in New York, and I feel sure the institutions in all states wouldn't be big enough to take care of our people. Therefore these people that have deserted as far as I am concerned they are nothing else but a bunch of cowards and now they are coming back to this country and many of them are going to come back. What are we going to do as taxpayers? They will be going on welfare, no question about it. So what are we going

to do? Support people who have deserted our country. Let them be without a country, but now that the President has given them a pardon there is no question about it that there are many of them who we will have to feed. Don't worry about that.

Senator McLaughlin moved the previous question.

Adopted.

Senator Sanborn requested a roll call.

Seconded by Senator Blaisdell.

The following senators voted yes: Lamontagne, Poulsen, Gardner, Jacobson, Saggiotes, Monier, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown, Preston.

The following senators voted no: Smith, Bradley, Bergeron, Blaisdell, Trowbridge, Hancock, Bossie, Downing, Foley.

14 yeas 9 nays

SR 4 adopted.

The Senate agreed to include a copy of the official roll call with the resolution.

Senator Rock moved to reconsider the vote on SR 4.

Motion failed.

SB 53, relative to vanpooling. Ought to pass with amendment. Senator Poulsen for the committee.

Senator Lamontagne moved to recommit **SB 53** to the committee on Transportation.

Adopted.

INTRODUCTION OF SENATE BILLS

First and Second Reading and Referral

SB 103, an act specifying certain items for the State Prison in the 1975 Capital Budget. (Referred to Capital Budget, Sponsors: Senator Sanborn, Dist. 17 and Senator Brown, Dist. 19.)

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to a third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, March 15, at 3:00 p.m.

Adopted.

Late Session

Third Reading and Final Passage

HB 31, making a supplemental appropriation to the adjutant general's department for fiscal 1977 and repealing restrictions on certain expenditures.

HB 37, relative to the taking of wild deer in the town of Chester.

HB 4, amending the hunting season for raccoons.

SB 60, relative to the extending of deer season for muzzleloaders under certain conditions.

SB 72, instructing the commissioner of resources and economic development to erect a commemorative marker on the Hampton harbor pier commemorating the Irving F. Jones family for contributions to commercial fishing.

SB 83, relative to wild turkeys.

HB 136, providing for a 3-day nonresident small game hunting license.

HB 192, relative to the taking of deer in the town of Auburn.

HB 105, relative to the revocation and suspension of hunting and fishing licenses pending appeal of conviction of fish and game regulation violation and the statutes relative to littering.

Adopted.

Senator Brown moved to adjourn at 4:45 p.m.

Adopted.

Tuesday, March 15

The Senate met at 3:00 p.m.

A quorum was present. Senator Rock deemed present; on business for Senate to Williamsburg, Virginia.

Introduction of Senate Guest, Mr. Fred Cross III, by Sen. Downing.

The prayer was offered by Rev. Dr. Vincent Fischer, Senate Chaplain.

As you were tempted, Lord, in the wilderness, may we with thy help overcome the temptations with which we struggle in our own individual wilderness each and every day of our lives.

Renew us please, with steadfast strength of character, as we meet each challenge as it comes along clearing our personal wilderness, with hope and understanding of the future.

Amen

Mr. Fred Cross, III, led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

First and Second Reading and Referral

SB 104, relative to the stocking of fish by the fish and game department. (Healy of Dist. 16—To Recreation and Development)

SB 105, relative to registration fees for foreign non-profit corporations. (Bradley of Dist. 5—To Administrative Affairs)

SB 106, relative to sweepstakes commission advertising. (Bradley of Dist. 5—To Ways and Means)

HOUSE MESSAGES

The House is ready to meet with the Honorable Senate for the purpose of hearing the Governor's Capital Budget Message.

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 184, 166, 264, 71, 141, 220, 296, 137, 186, 329, 319 and CACR 6 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 184, relative to minimum insurance coverage required for aircraft operated for hire and relative to requirements for security deposits and self-insurer certificates. To Insurance.

HB 166, relative to limited openings of smelt brooks to the handicapped. To Recreation.

HB 264, permitting towns to adopt a code of ethics for town officers. To Executive Departments.

HB 71, to reclassify a certain highway in the city of Dover. To Cities.

HB 141, clarifying the authority to maintain traffic control upon entering the state highway system. To Transportation.

HB 220, relative to state bridge and town bridge aid. To Finance.

HB 296, providing for the amendment of articles of agreement or legislative charter by a mutual savings bank or guaranty savings bank. To Banks.

HB 137, requiring permission from the trap owner before a duly licensed trapper may tend another trapper's traps. To Recreation.

HB 186, providing for seasons and bag limits on snowshoe hares and cottontail rabbits and defining small game. To Recreation.

HB 329, relative to the tenure of the poet laureate of New Hampshire. To Administrative Affairs.

HB 319, providing for payment of a claim to David F. Carter and making an appropriation therefor. To Finance.

CACR 6, relating to meetings of the legislature. Providing that the legislature shall meet in annual sessions and receive mileage for not more than 90 legislative days during the bien-nium. To Rules.

ENROLLED BILLS AMENDMENTS

HB 192, relative to the taking of deer in the town of Auburn. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: HB 192. Mr. President, members of the senate this amendment rennumbers the section inserted to avoid duplicate section numbers.

Enrolled Amendment to HB 192

Amend the bill by striking out lines 1-3 and inserting in place thereof the following:

1 Taking Limited. Amend RSA 208 by inserting after section 3-b the following new section:

208:3-c Town of Auburn. Wild deer shall not be taken in the town of

Sen. LAMONTAGNE: This amendment in the amending cause and does not effect the substance of the bill. The amendment by striking out line 2 and inserting in place thereof the following: line 4 after the words "violation of" the following RSA 163-B, RSA 249:27-b, RSA 262-A:83.

Amendment adopted.

HB 105, relative to the revocation and suspension of hunting and fishing licenses pending appeal of conviction of fish and game regulation violation and the statutes relative to littering. Senator Lamontagne for the committee.

Enrolled Amendment to HB 105

Amend the bill by striking out line 2 and inserting in place thereof the following:

line 4 after the words "violation of" the following (RSA 163-B, RSA 249:27-b, RSA 262-A:83

Amendment adopted.

HB 4, amending the hunting season for raccoons. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the senate, this amendment is necessary to conform with the title to the amendment bill

Enrolled Amendment to HB 4

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT:

relative to the hunting season and season limit for raccoons.

Amendment adopted.

ENROLLED BILLS REPORT

HB 72, making general revisions of the laws relating to parachuting.

HB 117, relative to a town's authority to appropriate for school purposes.

SB 35, relative to the incompatibility of certain town offices.

HB 136, providing for a 3-day nonresident small game hunting license.

Sen. Lamontagne for the committee.

COMMITTEE REPORTS

SB 3, removing the authority of certain public utilities to grant free or reduced rate service in certain areas. Inexpedient to legislate. Sen. Saggiotes for the committee.

Sen. SAGGIOTES: Mr. President, **SB 3** repeals the statute that provides for free or reduced rates to employees or retired employees of public utilities companies. At the public hearing the witnesses testified in opposition to the bill very definitely outnumbered the one witness as I recall and the sponsor of the bill who spoke in support of it. The committee unanimously voted that **SB 3** be brought in inexpedient to legislate although we felt some good came out of it where we realize in some instances the free or reduced rates that certain employees receive from public utilities companies, these costs are borne entirely by the residential consumer and it is our understanding that there is a bill coming in from the House that will rectify this situation. The position taken by the committee on this bill, inexpedient to legislate, was based on a number of reasons. One of the reasons being that the entire cost is very minimal and that is spread over almost all of the users of the utility. Secondly, many of the people who testified pointed out the fact that as a result of this benefit granted to them it means much more than what really meets the eye because this is a tax benefit they do receive as I say, much more than what is really granted to them. On the other hand a great number of people who testified representing various labor unions felt that this is not the route to go. We had one individual who presented to the committee a petition with 3,000 signatures in opposition to the bill. To sum up very briefly Mr. President, because of the other bill that is coming in which we will look at very carefully when it does come in, we record this bill out inexpedient to legislate.

Adopted.

SB 77, relative to straight ticket voting in all biennial elec-

tions, all other elections of national or state officers, and primaries. Majority report—Inexpedient to legislate. Minority report—Ought to pass. Senator Poulsen for the majority. Senator Preston for the minority.

Sen. POULSEN: Mr. President, this bill will eliminate one of the courtesies, you might say, where a voter can go in, he has been a democrat all his life and go in and mark an X and say a democrat. It's a nice thing particularly for the old timers, they like that privilege. They've been democrats all their lives and they like the ability to put the X. I think we are taking away a right of people. If you eliminate that right then he has to mark X's all the way down to each candidate, they get down near the bottom and many of them lose interest, they don't know the people who are running, the library trustee, and things like that and it gets to be garbled. They get no votes at all. I think it's a nice thing to have and a good thing to continue what we have and have this bill inexpedient.

Sen. PRESTON: The purpose of sponsoring such a bill which is before us, is not to do away with the two party system or three parties but let the designation remain at the top of the ballot but I think that recent history has shown us the problems that have arisen. I can reflect back to the last general election in the bicentennial year. A candidate was dared to file for office, a frivolous effort to seek the office of congressman from the office of the first district and who in the general election received I think it might have been 20,000 votes as a result of a straight ticket vote. I'm convinced that if that circle had not been there there might have been some people that had skipped it. Rumor has it that this particular candidate was even paid once to attend some convention because he had not been available. The press played it up as kind of comical but it was a very serious effort being made by the other candidate and it got to be funny but it really wasn't. It was a serious thing to think that someone could receive 23,000 and not seriously seek the office. I think that the removal of the circle at the top of the ballot would still allow the democrats and republicans to vote for the candidate of their choice; but they would conscientiously mark an X next to each and every candidate and I think perhaps reflect with some judgment on the qualifications of each person for whom they placed an X. If we go back to the Wyman-Durkin confrontation for any of you that sat in the hearings of the Ballot

Law Commission there were so many spoiled ballots as a result of that X in the circle and people had crossed for one candidate or the other and the ballots were cast out and there was much debate over them. There was a survey of New Hampshire election officials in their views towards improving the election process. In a report made to the committee on statutory revision of the New Hampshire General Court and to the Honorable Russell C. Chase, as Chairman, in answer to some questions, over 50% responded that often or occasionally there were attempts by people to put an X and then to split their ballot. The responses as to how or what determinations were made by moderators in these cases were, 44.8% of the moderators determined the spoiled ballots in their entirety. Some determination was made that 12.3% spoiled only for the section and question of that particular office; but it did point out that there was no real consensus amongst the election officials as to how a straight ticket, which is split, is really handled. The most frequent response was to treat the ballot as entirely spoiled. I think we all know the value of what a few votes can mean in very important elections whether it be for the U.S. Senate or Congress or those state and local offices. I would just urge you and I to understand that the republicans and small towns allow for straight ticket votes and the democrats and big cities rely perhaps on straight ticket voting. I think it's evident that the public is splitting a lot of ballots, that certainly in my area although predominantly republican, they do split. But I do think we would have a lot more ballots that would be accepted. It would create less problems in that people would intelligently vote for each and every candidate they want. If they want to make it straight republican or democrat this would not prevent them from doing the same but it will save a lot of ballots from being spoiled. And I move ought to pass.

Sen. BRADLEY: I have always been in favor of doing away with the straight ballot idea because it seems to me a thing from the past. However, I do want to share with you an experience that gave me second thoughts. As I think all of you know, my opponent last time had the same name I did; but on one particular occasion I was down at a place where everyone is sort of required to go and that's the Meals on Wheels and the lunch for the elderly at the Senior Citizens Center in Lebanon where a very nice little old lady struck up a conversation with me and was very intent on learning the

difference between the two candidates. She said, "yes, now I think I've got it straight. You were on the school board in Hanover?" I said yes, and he was too. So don't go by that, I know, you are the ski jumper? No. No, that's the other guy. And we went through a few more things to differentiate. . . . Oh, yes, your wife is Lilla? No, no, my wife is Ann and she said, "oh gosh I'm so confused. Well, if I just vote straight republican, I'll be all right won't I?" And at that point I said, yes ma'am and it caused me to change my mind on this issue.

Sen. MONIER: I think at the end of the commentary that Senator Preston was making a motion, did you accept that as a motion, which now are we discussing, the majority or the minority report?

Sen. JACOBSON: I did not hear the motion and the practice in the Senate is that you make your motion and then make your speech.

Sen. MONIER: My point of order was I wanted to know which one we are talking under?

CHAIR: At the present time as far as the Chair knows it is the motion inexpedient to legislate.

Senator Preston moved to substitute the words "ought to pass" for the words "inexpedient to legislate."

Sen. PRESTON: Senator Bradley, did I understand in your statement that you are for this bill as it appears before you?

Sen. BRADLEY: I think the point of my story was, I think there are some times when there is some value in the straight ticket approach.

Sen. BOSSIE: Senator, we understand you have another story you will probably enlighten us with in regards to your campaign that might shed some light on this.

Sen. BRADLEY: I think you're probably referring to another nice lady that I met out on the campaign trail who made a point of singling me out and said "I know you are my man, I'm with you, I know the problem, I wouldn't vote for that lawyer."

Sen. MONIER: Mr. President, the reason for the point of order was to find out which side I was to speak on and I just wanted to make sure what we had. I agree with Senator Bradley and with Senator Poulsen and I arise in support of the inexpedient to legislate and urge we vote down the motion of ought to pass. I think I've got that straight now. I think there are several things. In the testimony before the committee Sec-

retary of State Gardner appeared and several other people and some interesting things came out and I would just like to pass them on without any comment or anything, for example, Mr. Delisle from Littleton appeared and we asked the questions as to what is the percentage in his particular town, which happened to be Littleton, of straight ticket party voting and he between 25% and 35%. I think we asked one other person but even if we did not I went back to my hometown and a couple of others and checked with some people and this seems to be about the average of the straight ticket voting by town, which is 25-35%. A second thing that came out in it were some interesting anecdotes with regard to the last election in Vermont. I think that all of us at one time or another have had something to do with counting ballots, the local elections or have been involved in election procedures in which I've agreed with Senator Preston that you have mistakes. I don't agree that there are always mistakes because you have straight party tickets instead of something else. I can find a hundred others, and the lawyers for the Wyman—Durkin case who were looking after a particular interest and therefore were eagle eyed with it, obviously found a lot of others besides that. The interesting thing is that, in checking since we've had this, most all town moderators who are in charge of the election counts will quickly agree that as one goes down a ballot, any ballot where you do not have a straight party ticket as in a primary, you'll find that less and less people vote for the people on the ballot. Now that's indicative of many different things. I suppose one of them would be laziness on the part of the voter or lack of recognition of the people involved or just plain tiredness or fear of making a mistake. There are a lot of concepts that could be applied to that. But the truth of the matter is that when a voter in a town goes down through and has to go through a whole series of people they vote less and less for those people further down the list and the testimony that was given in Vermont was, they have a law which states that an elected official to the Governorship must have a majority. Under the last election without the party designation of the straight ticket ballot, there were not enough people that went below the Presidency, the Senatorial, the Congressional, the Governor, the Lt. Governor, there were not enough people among those that voted to provide a majority vote. In short it was plurality only and I think therefore we have this obligation that we must recognize that voters are not going to

go down the list. Therefore you may wind up in a town in representative at large voting or senatorial districts if we are far enough down the list in the regular general election like the national election where you are going to have less than half the people voting. They are going to be selecting who that candidate is and, I submit to you, that is as bad as would be any argument about straight party voting. The last issue I might give is this. The minute we take the party straight ticket off, we also open the door to certain other kinds of things that are political and are a fact of life. Name recognition is one. Second is the intelligence and capability of using a lot of money. Third is charisma and all of these things may have something to do with the capabilities of a particular candidate but I don't qualify for any of them and therefore I would like to retain the traditional party designation.

Sen. SANBORN: Mr. President, I was interested in the remarks to the Senator directly in front of me, relative to his last contest and the reason that I would support the minority report, I mean the majority report at this time, inexpedient. I would like to inform the Senate that at one time I was boarding here in a town in this state and it so happened that there was another person who had a box at the same post office with the name William E. Sanborn. And I've always wanted to meet that man because I used to get home with a letter and open it up, and I'd like to meet that man and find that girl that kept writing him because they were the hottest letters I've ever read in my life.

Sen. FENNELLY: I arise in support of the majority report. About two years ago I had an experience in a recount, Senator Monier brought up a very good point, between Mr. Yeaton Mr. O'Neil for the Governors Council seat and after a day and a half of recount, this included straight ballots we found out between the two candidates that the blanks won, 22,000 people in the third council district did not vote for the Governor's Council. Mr. Yeaton did win by 248 votes. Also the time element. If we did away with the straight ticket from what Senator Monier says 25 or 30% vote straight ballot we probably would get the returns in sometime around 2:00 p.m. the following day; because they have a tendency to go down to a certain area and stop voting so I arise in support of the majority report.

Sen. MONIER: When you stated that 22,000 did not vote am I not correct that those 22,000 did vote for those people

above on the ticket.

Sen. FENNELLY: That is very true.

Sen. HANCOCK: Did you also find that they voted for the people below?

Sen. FENNELLY: No. County Commissioners had a very low count and also sheriffs.

Sen. HANCOCK: Where does the Governors council come on the ballot?

Sen. FENNELLY: The Governors Council comes right under the Senate, if I remember in the last election.

Sen. HANCOCK: And who comes after that?

Sen. FENNELLY: Treasurer and the city people.

Sen. HANCOCK: And they didn't vote for the people below?

Sen. FENNELLY: Well, I don't know. I can't remember that. But I know that 22,000 did not vote for the Governors Council. Mr. Yeaton received 21,700 votes Mr. O'Neil received 21,400 votes.

Sen. HANCOCK: Is it possible they didn't care for either candidate?

Sen. FENNELLY: I can't answer that question.

Senator Foley requested a roll call.

Seconded by Senator Hancock.

The following senators voted Yes: Saggiotes, Blaisdell, Trowbridge, Keeney, Hancock, Healy, Bossie, Downing, Preston, and Foley.

The following senators voted No: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Monier, McLaughlin, Sanborn, Provost, Brown, Fennelly.

10 yeas 12 nays

Motion failed.

Inexpedient to legislate. Adopted.

SB 89, relative to the presidential preference primary and

the choosing of delegates for the national conventions. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President, I arise as Committee chairman on this particular bill and I will hope we will pay specific attention to it. The reason being to me this is one of the major reform bills in our election procedures that we've all been talking about in the newspapers but some of us have not been able to see much accomplished as a result of it. This bill was introduced by Senator Sanborn who is the chairman of the election reform committee. It has been through a screening preparation by that committee in public hearings around the state. It then was drafted into a bill by both Senator Sanborn, Representative Riley and myself. It has been brought to the Executive Departments where another hearing was held. Quite frankly this makes a dramatic and different change in the election procedures for Presidential primaries and these changes, I think, are far overdue and long overdue and something we have to seriously debate and question and act on today in the Senate. I might add that the committee, upon hearing the debates and upon hearing the thing, that we did have an ought to pass which was agreed to by all members of the committee. There are about three things that this bill does and if I can, I'd like to outline those three. The first is that it establishes a primary in which the candidates for President and Vice President wins the delegates pledged to him for him at the parties national convention in proportion to the percentage of the popular vote he wins during the primary. Now that's a major significant change. In our state we have a winner takes all situation and as a result if a person wins by a 70% vote and his opponent has 30% vote the person that wins the 70% has all the delegates of his party at the national convention for his party. This bill changes this to a proportion so that of the delegates for a particular party convention the candidates running the party before would split the delegation in proportion to their popular vote during the primary. The second major thing is this and I think personally this is one of the most important parts of it. The ballot would no longer be cluttered with all of the names of those people running as delegates. Instead under this piece of legislation each candidate would file with the Secretary of State for the position of President and would file with the Secretary of State a listing of his

delegates, the ones that he preferred in a descending order of priority with number one being his number one all the way through the total amount of delegates which is different by republican or democratic standing, then the selection of those delegates to represent him at the national convention become an order of preference from that list. Now we had several questions regarding this second major change in the fact that would deny people from being on the ballot. This is only partially true. Today if you are on the ballot as a pledged delegate you still must have the approval of the candidate in writing with the Secretary of State in order to have that delegate pledged to the candidate on the ballot. So you have not changed that one little bit. The second thing that it does is eliminate the frivolity and I consider it to be that of people filing on the ballot who perchance the candidate did not wish to have as a pledged delegate. They can still now, under our current laws, list themselves as favorable. This is not a partisan issue, as far as I am concerned. This is happening to both parties. It's happened to many different candidates, it's happened to both republican candidates where you've had four or five persons running to the democrat candidates where you've got two or six people running and the same thing has happened throughout our period. I didn't bring it with me today but I think all of us are astute enough politicians to know what a Presidential ballot looks like. We have some in the committee files and I will be glad to show you if you have forgotten; but in one case where in this last Presidential primary there were only two republican candidates, I think there was one other but two major ones, but the democrats had several. The ballot looks somewhat like a horse bookie sheet in which we had names scattered from one end of it to the other; alphabetically by candidate favorable and etc. and by the time that you were through counting these if you want to talk about error of people selecting. There were enumerable errors thrown out a local and town districts as a result of adding too many where it says vote for only 15 or in the case of democrats which have a different number of delegates vote only for X amounts, I'm not sure what they are and would get people running down through the list. They were jumping from one to the other and so forth. The uncommitted delegate in this is still able to be selected, he may also file with the Secretary of State as an uncommitted delegate and those who are listed as such with the Secretary of State would then be selected by

people that did not win a major proportion of it, but would have in the terms of half delegates or quarter delegates the opportunity of one or two delegates so that they are available to be filed with the Secretary of State as uncommitted delegates. The third largest part of this, it does not deny write-in candidates. For example if a write-in candidate were to win delegates he must then file a list of delegates with the Secretary of State within 7 days of being notified that he has won the number of delegates he has. To be quite frank with you what I see this bill doing is this, it eliminates the hodge-podge of peoples names per se running for a candidate but does not eliminate what we now have, which in a sense is an unofficial caucus in which the candidate determines those names he wants as delegates, so it eliminates a lot of unnecessary form of voting. Second at a major change which does change is the proportionate share of the delegates in terms of the popular vote. I think this is a matter of decision for the members of the Senate and the House when the bill gets there. This is a part and parcel of the reform bills and the reform situations that were brought before the select committee on election reform and which have been a part and parcel of our newspaper articles by questioning the people with regards to these kinds of ballots and so forth. I personally think this is a step forward and I urge you to vote for it.

Sen. SANBORN: Senator, as you mentioned in the first part relative to a candidate say getting 60% of the vote and another one getting 40% of the vote, doesn't it also eliminate the possibility under our present system that somebody may get say only 30 to 40% of the popular vote and yet get all the delegates?

Sen. MONIER: That is correct, because under the current circumstances and I don't like to enter into this but to be quite frank with you I think most of us are well aware although we don't like to say so that the scramble is usually on to get the biggest names known, name recognition, rather than to put the merits of candidate first and have the delegates representing that issue. It does eliminate that, and that's one of the reasons I strongly support it.

Sen. TROWBRIDGE: I'm surprised you say there is a winner take all. As I remember in the last republican convention there were some Regan delegates and Ford delegates sent to the convention. It wasn't all Ford delegates.

Sen. MONIER: I apologize, the term was badly used. You

are correct and I might add that is one of the deficits of the current law. For example, if we are going to have a popularity contest then it ought to be proportioned, what happens under the current situation is those names that have the best name recognition or perhaps the most statewide exposure may well be elected as a delegate. It does eliminate that and that perhaps may be a fallacy in your opinion and in my opinion you're supposed to be electing a candidate from the people who represent. I do agree that I was incorrect in that it does take all.

Sen. TROWBRIDGE: Going on then, now that you have eliminated the names of the persons who are pledged to the candidate, do you not think that you find out something about the nature of a candidate by the people who are behind him, is it no longer true that you know a man by his friends?

Sen. MONIER: I do. But I have not eliminated them, I have merely eliminated as vote gathers for a candidate and let him stand on his own; because the bill says that they must be filed with the Secretary of State, who then will publicize them throughout the state so that all the voters are aware of them. So you have not denied them of knowing who's supporting them and certainly you don't deny the delegates the capability of issuing their own press releases as to why they support them. I think that I would agree with what you are saying except for one thing. The fact that they're on the ballot is not the only means by which the public would be aware of who is supporting who.

Sen. SMITH: Senator I have some sympathy with this bill, the thing that I wonder about, and I'm not sure if it works in both democratic and republican primaries in the same way, but as I recall in the last primary I believe there were 10 delegates at large and there were two delegates from each Congressional district for a candidate, now you get some sense of proportion when you are dealing with a number of 10 what about when you've got two delegates from a congressional district, what happens in that instance under this bill?

Sen. MONIER: Same principle. They would be filed that way with the Secretary of State. It does not change that; but let me respond to that; because you are correct and I hope we are both right I think it was 10-2 but you remember something you also vote for alternative so you're talking not 10 but 20, you're not talking 2 but 4 for a total of 24 in the republican and

I am not familiar with what the democrat is but I think it's a little higher than this. The proportion, the idea of having delegates still stands because the candidate must file with the Secretary of State and I will defer that to Senator Sanborn; but I do not think it changes that proportion. It's exactly the same.

Sen. SMITH: Let's use an example, if you have 2 delegates from a congressional district and you have two candidates running for president in that congressional district, one who get 89% of the popular vote, and the other gets 11% under this bill, wouldn't one delegate represent one candidate and one delegate represent the other candidate?

Sen. MONIER: The numbers of percentages I would have to check on; but I'd rather defer that to Bill Sanborn if I may, but no delegate can get a half one and somewhere would have to be split but I think it is a total of 12. Am I wrong Bill?

Sen. SANBORN: The 564 districts are more than two though if I'm not mistaken. Because the first Congressional district I think there is something like four. Somebody would get two and the other one would get one if they had sufficient votes to do it, certain percentage of the vote.

Sen. BRADLEY: Senator Sanborn, I can't understand how it is that someone gets to the convention as an uncommitted delegate. Can you go through that?

Sen. SANBORN: For instance, we've got three or four candidates for the office of President, so A gets 50%, B gets 30% C gets less than 10% of the popular vote. When that percentage is taken of the delegates and eliminating the one below 10%, there is going to be the 584 some part left over. In other words you're not going to come out even, 8 delegates, 3 delegates, 2 delegates. There going to come out an odd number each time, they will take the next lowest full number in each case and there in turn are going to be enough of these percentages left over to equal one or two delegates and those become the uncommitted delegates.

Sen. BRADLEY: How do we know who the uncommitted delegates are?

Sen. SANBORN: Whoever has filed with the Secretary of State to be an unpledged delegate to the democratic convention or republican convention.

Sen. BRADLEY: Well, in other words we could still have dozens of names on the ballot of the people who file as uncommitted delegates.

Sen. SANBORN: The name would not be on the ballot it would be on the list as filed with the Secretary of State. Let us say Senator that you filed first, your name would be at the top of the list.

Sen. BRADLEY: Oh, I see. All right so there is no actual direct voting for uncommitted delegates.

Sen. SANBORN: That is correct.

Sen. FENNELLY: Senator Monier, my question is basically in the last election, I'm talking about the republican primary is very close election, popular wise, where Mr. Regan only lost by 11, 12, or 1300 votes yet the Ford people practically swept the day where they got 17 and Regan received 3, if this bill was enacted and the same situation came up again without the names of the people that are running pledged to the candidates in what proportion would Mr. Ford and Mr. Regan have made out last time. Would it have been split by him only losing by 1100 or 1200 votes?

Sen. MONIER: Well, you're asking me a question, I don't know how to answer it, I don't know how they voted. But I will make the suggestion that perhaps some of the support for Regan which was obvious by the fact that a Regan delegate did win was based not so much on Regan as it was upon that delegates statewide name recognition. I think the same was true about the Ford delegates. Are we voting for the candidate that's for President or are we voting for name recognition of the delegate?

Sen. FENNELLY: Pertaining to name recognition, Senator Monier, it is my experience that the democratic primary Mr. Udall had much, much better names on top of the ticket yet in the final analysis of the primary Mr. Carter captured 15 of 17 delegates with lesser names. Could you answer that question?

Sen. MONIER: No. I am not familiar with the democratic situation at all. My answer, however, would be, Senator Fennelly, but if you took a look at the republican ballot you had probably 12, 12, 12, 12, 24, 48 names on it one for an alternate, one for a pledge you had three or four on a favorable and I think you had a few uncommitted; but if you look at the democrat ballot where you had several candidates, 17 candidates, you found within it a whole series of blocks with respect to the pledged and unpledged delegates and so forth and so on. How you will justify or argue about what people will do in a ballot box with these various names, I don't know. In the particular case you are speaking about, and I'm assuming your figures

are correct, the issues of Governor Carter were more acceptable to the people and they looked for his delegates. Now if that's true, in the Presidential primary I would like to see the three parts, the first is the proportion, an entirely different change, the second is that your voting for the Presidential candidate and not for the delegates per se by name because I doubt if anybody was on for Carter pledge without Carter's permission, if you see my point. So it's exactly the same principle as filing with the Secretary of State.

Sen. SAGGIOTES: Senator, for my clarification I just can't get it through my head, if I want to run, if I'm unhappy with any of the candidates that are announced candidates, and I want to run as an uncommitted delegate what would the procedure that I would have to follow?

Sen. MONIER: First, you would not have the advantage you have now, because of your name recognition that would be number one because you would not be on the ballot. The second thing is that you, as an uncommitted delegate, would file your intention to be an uncommitted delegate with the Secretary of State fourteen to twenty-eight days before the election. That's your first step. The second step would be that seven days prior to the election the Secretary of State would select the order of preference of those uncommitted delegates so that if Saggiotes name was pulled first out of the pool then he'd become number one. So you would be the number one committed delegate on the list of the Secretary of State. If you came up ten and there were ten people, you would be tenth on the list. That's the second procedure.

Sen. SAGGIOTES: I don't understand what you mean by a pool.

Sen. MONIER: I will read to right here, seven days prior to the election the Secretary of State publically by a lot chooses the order in which the uncommitted delegates will be designated to attend the convention if any are entitled to do so.

Sen. SAGGIOTES: Similar to a sweepstakes drawing?

Sen. MONIER: Yes. I don't know what the lot is, it's in here, it's a procedure by which Bill could answer that more specifically, but its done by the Secretary of State, therefore if ten uncommitted delegates had filed there would be 10 positions of heirerarchy within that uncommitted, one of them would come up first, somebody would come up last. That's the second procedure. The third is if a particular person on the ballot winds up or a write-in candidate got enough votes on

the presidential primary by write-in like Cabot Lodge did, then the number of delegates in proportion to the total percentage of votes would be picked from the uncommitted delegates, which means then in that case now if he was not well enough to take 10 delegates you'd go down his list of delegates and the first 8 would be for Cabot Lodge. Now if on the other hand there is not a write-in candidate, but there is instead 17 candidates or six or seven, which has happened to us in the republican party my understanding is that those who came out with not enough for eight delegates would be added and the uncommitted delegates they would come off the top of that preference list of uncommitted. Now that's the procedure to the best of my ability.

Sen. BOSSIE: Senator, were that in effect for the last primary or for the future primaries wouldn't it be true that people like Chief Burningswood and Chief Runningwater and everybody else would be getting delegates to the convention by putting their names on because there are people who will vote for these nuts?

Sen. MONIER: I thought that anybody under our system could file. I would like to defer that to Bill but I think my answer would be without that statistics and figures, no. Because what would happen is none of them would have had high enough vote to have a percentage of the delegates, therefore, they would not have had a delegate at the convention and they would be added up as one or two or whatever the number was I was forcing the total to uncommitted delegates which incidentally takes care of that relief valve for the people who are unhappy with all the candidates and might vote for somebody.

Sen. TROWBRIDGE: Senator Sanborn, as I understand your explanation, you're almost guaranteeing in any New Hampshire primary which has a lot of candidates that there will be one or two delegates that will be chosen from the uncommitted delegates because of the fractional vote.

Sen. SANBORN: Senator, that would depend on the number of candidates we have before us.

Sen. TROWBRIDGE: Yes, but knowing the historical way its been with going down to the lower full digit . . .

Sen. SANBORN: This can happen, yes.

Sen. TROWBRIDGE: If so, then at that point those people are awarded a delegate out of the pool of uncommitted delegates; am I to be lead to believe that we are giving up maybe two or three delegates to each of our conventions to be

awarded the people who are unknown, whose order is unchosen and who come out of some pool of names at random that we are going to send to our conventions?

Sen. SANBORN: You put it in a kind of strong way, I would say. I don't entirely agree with that statement doing some quick figuring over here and I may be wrong, the way I see the last republican convention, or rather the primary we held here I believe there was somewhere around a total of 19 republicans sent to the convention and it would have ended up with Reagan and Ford being about one percentage point apart, the delegates would have been 9, 9, and 1. One uncommitted.

Sen. TROWBRIDGE: Even taking your example, why is that we then take one of our I think it was 21 we ended up with that we are then going to award to an uncommitted candidate who does not have to vote for the candidate to whom you assign him, because he's uncommitted

Sen. SANBORN: I fail to follow that last part of it.

Sen. TROWBRIDGE: Is it not true as you said in the Henry Cabot Lodge situation that if he ran a popular write-in vote and got lets say 30% of the vote that he would have to choose his candidates from the uncommitted pool who are by definition not committed to Henry Cabot Lodge.

Sen. SANBORN: That would be up to the candidate to get to commit to him.

Sen. TROWBRIDGE: But they ran as uncommitted.

Sen. SANBORN: At the time.

Sen. TROWBRIDGE: How does every citizen know that he is going to get representation of Henry Cabot Lodge people, when Henry Cabot Lodge has to run, if running on a write-in campaign, with uncommitted delegates? How can they be sure they are going to be represented at the convention?

Sen. SANBORN: Well, if I remember correctly Senator, before the last conventions, last summer we had several delegations that had uncommitted delegates, it seems to me that there was one southern one that was quite a bit of controversy about one way or another and both the candidates at that time made a considerable effort to see that they could get some of those uncommitted delegates.

Sen. TROWBRIDGE: You're saying your procedure however, is that the person who wins in New Hampshire a substantial number of votes the Henry Cabot Lodge situation where the people of New Hampshire have spoken that's who they want to send to the convention, not just undeclared candidates, you're saying that he has to go in with the people who

filed in sequence and got pulled out of the pool, it's not the same situation as in Mississippi where they're all committed in the beginning. It is different in that people of New Hampshire have spoken and still the delegate becomes undeclared. Isn't that quite a different situation?

Sen. SANBORN: Well, I suppose Senator under our pre-he really wants to be a candidate to get to these delegates who are uncommitted and get them to change and support him.

Sen. TROWBRIDGE: Since anyone can file, then at that point people of the state of New Hampshire if they do do a write-in vote have no idea what kind of person they are going to send to the convention, because it comes off the list and it could be an 18 year old or it could be a mentally incompetent on the list. Is that not true?

Sen. SANBORN: Well, I suppose senator under our present election laws this may be wrong, I think, because there has been a slight change since the last time that these people declared illiterates could definitely be declared a candidate because they've been declared we cannot separate the illiterates, incompetents from any other voters.

Sen. TROWBRIDGE: Yes, but the other candidates have to file their list of who are the people behind them. They can choose and choose competent people, whereas the other person has no choice except to take it out of the pool willy-nilly.

Sen. BRADLEY: Senator Sanborn, I think you gave Senator Trowbridge some wrong answers because I think the write-in candidate does select the delegates. Paragraph III at the top of page 6; but the question I have I'm having trouble with this mathematics, assume with me that there are 12 delegates that are going to go to a convention and there are three candidates, one candidate gets 30% of the vote, the next candidate gets 30% of the vote, the third candidate gets 40% of the vote. So as I understand the mathematics of this thing that means the first guy is entitled to 3.6 which means he is entitled to 4.

Sen. FOLEY: Can you tell me if a Presidential candidate has listed his delegates how they are selected if 5% of his delegates are selected, are they in the order he wants them to go or are they also selected by lot?

Sen. SANBORN: I believe Senator Monier clarified that in saying that they would be in the order that he wants them.

Sen. MONIER: On page 6, roman numeral three, second paragraph it states as follows: if a write-in candidate should be

eligible for delegates by reason of obtaining 10 percent or more of the vote in a party's primary, he shall be so informed by the secretary of state and file a list of delegates with the secretary of state within 7 days of such notification. Therefore Cabot Lodge would have had the opportunity to file the delegates.

Sen. TROWBRIDGE: Yes. What I was wondering about with Senator Sanborn is the person where Senator Bradley brought up you split it down on the lower percentage so three people in that situation you would have only accounted for 11 of the 12 candidates. That means one candidate of those 12 is going to be 1/12 of your representation, is going to come out of the pool. That is really what I'm worried about more than Henry Cabot Lodge.

Sen. MONIER: I'll be glad to talk about that later. I just wanted to clear this particular thing up.

Sen. BRADLEY: Senator Sanborn, on page 5, two thirds of the way down it says the total delegates pledged to candidates shall be increased to the next higher whole number if the part of the delegate the presidential candidate is entitled to is more than 1/2 of the delegate. Now I take that to mean you round off to the next higher number. Starting with that premise, let me go back, 12 delegates, one guy gets 30 the next guy gets 30 the next guy gets 40. The first one is entitled to 3.6 which is rounded off to 4, the next one gets 3.6 which is rounded off to 4, the next one is entitled to 4.8 rounded off to 5, you've got 13 delegates, I'm afraid that can happen as often, you will get more total delegates as often as you will get the opposite.

Sen. SANBORN: Well, Senator, to be truthful I hadn't seen that little paragraph in there myself. I'll have to give Legislative Services the devil on that one.

Senator Bossie moved to indefinitely postpone.

Sen. BOSSIE: This bill that is before the Senate is one which I'm sure Ronald Reagan and Morris Udall would be the sponsors, I think it is a bad bill and I'll attempt to explain why in light of all the controversy it has brought before us, in light of the various questions it has brought before us exactly what it will do. Let me say this, I have a little experience with this sort of thing in as much as four years ago I brought before this Senate a bill to revamp the set up of delegates to conven-

tions and it was passed and it was law this past time, so that those of you who are democrats and voted this past time would realize that all the delegates are not as many as Senator Monier said that would confuse us, we are not easily confused, in fact Jimmy Carter's name would appear and below him every candidate that was pledged to him they would be there and the same with Morris Udall and everybody else. Even though we had voting machines it didn't confuse us one bit and it would be less confusing if I would have a republican ballot in which there would have been only three candidates with probably 30 or 40 names printed. Now I have no problem with voting for my fellow citizens. I think this is Americana, this is New Hampshire, this is what the New Hampshire Primary is all about. I don't mind voting for these people coming in from all over the country. It's kind of fun to get the attention; but at the same time when my friends, and my neighbors are running for delegate or whatever and I know that. I agree with Senator Trowbridge you can tell somebody by their friends. I could tell who Ronald Reagan was by his friends. I could tell Gerald Ford by his friends and I could tell all the democrats who were supporting them. I think this is a bill to embarrass the incumbent President. Anybody, and I was asking about Chief Burningham and his friends, anybody can run in this primary all you need is \$500. If you're going to have something like this, you'd better tighten it up. I do favor other people running. As many people that want to. In the democratic primary we had 17 candidates. It didn't bother me one bit and the crackpot in the fringe element got very few votes; but under this bill I submit it is possible they would have gotten some of the delegates. And I would again disagree with Senator Monier that we have a winner take all primary. It's just not true. Look at Johnson and McCarthy. Johnson got a plurality of the votes but he did not get a plurality of the delegates to the convention and as one who ran for Jimmy Carter this past summer, Senator Fennelly and I did, our slate worked hard and that's why we won. Our candidate was certainly the better one, we thought, but I certainly didn't mind competing against delegates for Morris Udall or any of these other people. They are all just fine and I didn't mind running against them one bit, it didn't embarrass me one bit and I wanted to do it. At the same time I disagree that candidates are listed on these ballots all three hundred of them alphabetically. It's just not true. As we know from reading the

statute that these are rotated so that my name over in Portsmouth may be first but my name on the ballot from Manchester Ward 10 where I am from, would be last, so I might not get as many votes as you would suspect. The fact remains also that this bill would encourage big names. It would do the exact opposite as the sponsors say it would. Right now in this past election we can easily use that. Gerald Ford had all the big names of the Republicans in New Hampshire and Ronald Regan had a few and he had a former Governor. In the democratic primary Morris Udall had a substantial number of big names and poor Jimmy Carter only two lonely state Senators favoring him. At the same time this bill would only encourage the big shots to be on this pledged delegate list. Let me explain. Going to the convention out in New York we were one of the few states that was not controlled by the U.S. Senator or by the Governor. All around us, all the big shots were there. You would see all the commentators going up to them and saying well Governor, what do you think of this? New Hampshire was very nice we just had a good time and our congressional delegation visited us. We saw the people. We had 18 year old kids down there from New Hampshire. We had a 75 year old grandmother. We had only one lawyer. I think it's a good system the way we have got it. I do not want delegates off the list. When we were in the House four years ago on my particular bill at that time they asked do you want the names off. I said, No. This is a good system. What is going to happen is this if you are pledged to somebody you try to get on his slate. And if you do get on the slate your name won't appear on the ballot. I'll tell you New Hampshire people are pretty independent. What they are going to say is hey, if Louis Bergeron doesn't have the guts to put his name on the ballot, I'm not going to vote for him; but if Dave Bradley puts his name on the ballot even though I don't know who he's for, I'm going to vote for him because he had the guts to show independence and we are going to find a lot of people winning that way when actually they may favor one of the major candidates. I just don't think that is a good way to do it. Not only would this bill discourage write-ins, it would think about it. Why should anybody have a draft? New Hampshire is famous world wide for our drafts. Look at Henry Cabot Lodge a number of years ago. Now that was good and it was exciting, it's New Hampshire and that's what our primaries are all about. Let us not change it. Let's not make it into New

Jersey. We don't want to be New Jersey, we don't want to be New York. We want to be New Hampshire, we've got a system that is fine, let's not tamper with it.

Sen. SANBORN: Senator, did you happen to observe any of the ballots in this last primary during the counting process?

Sen. BOSSIE: We have voting machines in Manchester so I did not.

Sen. SANBORN: Would you believe Senator, of the 14 candidates that your party had, and 14 different pages of delegates on the ballot, that I observed in some cases one out of each one of those boxes chosen not under Carter, not under Udall but 14 different spots on that ballot they checked somebody off?

Sen. BOSSIE: Well, let me put it this way, I would have no objections if that's what people wanted. I for one even though I voted for Jimmy Carter, I didn't vote for all his candidates. Some of them I didn't like. There were some of the candidates for Morris Udall I liked and some of the other candidates I liked. If I see your name on the ballot I'm going to say well Bill is a very smart man, he has good judgment, I'll vote for him even though he is for somebody I do like. I think that is fair and all good.

Sen. SANBORN: In other words you're telling me that you are voting for the delegates and not for the candidate of your choice.

Sen. BOSSIE: No. In New Hampshire our elections are bifurcated. You vote for the President on the list, there are four or five of them, and then you can vote for his candidates. So if you want some President like Gerald Ford, then you can vote for all the other guys delegates and this happens in our primary. Whats wrong with that? I have no problem with it.

Sen. SANBORN: In other words you're telling me that the preference of the people of the State of New Hampshire is not to be the delegate choice when you get to the convention?

Sen. BOSSIE: I think it's the opposite, by having the delegates to the convention there are some people you don't want to represent you even though they're for somebody and I'd just as soon determine as Senator Trowbridge, who is going down to that convention to represent me. That's the way I want it.

Senator Poulsen moved that **SB 89** be laid on the table.

Adopted.

SB 57, making an automobile to the value of \$2000 exempt from attachment and execution. Ought to pass—Majority. Ought to pass with amendment—Minority.

Senator Bradley for the majority.

Senator Bossie for the minority.

Sen. BRADLEY: Mr. President, the underlying issues of this bill are really very much the same as we debated the other day in connection with making mobile homes to the extent of \$2500 exempt from attachment and you will recall during that debate I read from the statute which is somewhat archaic, and a copy of the statute has been distributed to you. All the bill does is add to that long list the one automobile to the value of \$2000 meaning that, no matter how much of a deadbeat the guy is, much of an irresponsible spendthrift he's been, his creditors can't take everything away. They're going to leave enough to allow the man and his family to survive and it is my feeling that adding the auto to the statute is in order, it really takes the place of the spirit of the provision which allowed the man to keep his horse, and I suggest in the year this law was first put on the books that the horse stood in pretty much the same position that the automobile now stands in or represents. The committee did get some information about the kind of car one can get for \$2000 and its about the minimum. It's the minimum you can expect reasonably to run for any length of time is \$2000, so this isn't going to allow the guy to run around in an expensive car and thumb his nose at his creditors. Beyond that how you vote on this sort of depends on how you feel about the way we look at the family unit.

Sen. BERGERON: Senator, how many people that you know pay cash for automobiles?

Sen. BRADLEY: Oh, I assume most people do not.

Sen. BERGERON: If you were a lending insitution and I came in to you and I had a need for an automobile and I applied for a \$3000 loan and a \$4000 automobile, under today circumstances, you would probably grant the loan. Would you grant that same loan with this legislation we are now talking about?

Sen. BRADLEY: Well, you raise a good question because I think the point of your question is that some people are going to find that their ability to borrow against an automobile such as this may be impaired and they are going to have to find other security. I think you are correct in the point you make. But again I think we come back to the issue are you going to let the guy keep his means perhaps of getting to work is to extend the \$2000.

Sen. BERGERON: Senator, would you believe that it would be impossible for most people in the State of New Hampshire to borrow money to purchase a car and isn't this just another indication of some far out people thumbing their noses at those who are willing to make the system work i.e. grant loans?

Sen. BRADLEY: I wouldn't characterize it that way.

Sen. FENNELLY: Senator Bradley, you mentioned this is very similar to the mobile home type of bill we passed last week, the question I have is the amount of transactions that banks lend out money on auto compared to mobile homes in my opinion it must be a ratio of 600 to 1, am I correct by saying that?

Sen. BRADLEY: I really wouldn't know.

Sen. FENNELLY: If this bill passed and became law don't you think that the general consumer of the State of New Hampshire the banks want more equity in holding this down when they know that this bill has passed that they cannot take a car for \$2000 and your remarks what type of car that you get an individual goes to the bank and puts up 1/3 of \$900 or \$1000 and still has \$2000 left on the car and doesn't make his payments yet he will be able to pick up a \$2000 automobile for a \$1000 investment am I correct?

Sen. BRADLEY: Well, I'm not following your mathematics. The car would be exempt to the extent of \$2000.

Sen. FENNELLY: You mentioned this is in the same category as a horse, do you agree with me that when this law was passed in 1862 that even though the horse was exempt from being taken over by the town or city or whoever it was that everything was on a cash basis in those days. If you were going to get a horse you were going to pay for it. Would you agree with me? They didn't have any lending type of banks at that particular time to buy a horse.

Sen. BRADLEY: Oh I think there were loans, mortgages in those days as well.

Sen. FENNELLY: Do you think that if the bill passed there would be an increase percentage wise of what we would have to have to borrow in order for the banks to protect themselves from this type of legislation?

Sen. BRADLEY: I think the effect it would have would make it difficult for some people to borrow, and in order to borrow they would have to find other assets to pledge. I suspect it would be the principle result.

Sen. LAMONTAGNE: Senator, are you aware the \$2000 exemption could possibly mean a 1974 Chevrolet, Ford or whatever, do you think it's right?

Sen. BRADLEY: Well, I forgot, we had a number of ads in the folder as to the kind of cars you can get for \$2000, the impression one got from looking at the ads is that you were not getting much of a car for \$2000.

Sen. LAMONTAGNE: Senator, you seem to think that for \$2000 you can't get much of a car, is that what you said?

Sen. BRADLEY: That was certainly the information we got at the committee hearing, that you don't get very much of a car, you get a modest used car for \$2000.

Sen. LAMONTAGNE: Well, let me tell you I just bought a '73 Caprice for \$1,500 and it only has 22,000 miles on it. Would you think that was a good running car for that price?

Sen. BRADLEY: If you bought it Senator, I would assume it was.

Sen. LAMONTAGNE: Don't you feel that these people that don't pay their bills and at the same time why couldn't you make your exemption for less than \$2000.

Sen. BRADLEY: Would you buy \$1000? \$500?

Sen. PRESTON: This would not allow a repossession by a lending institution?

Sen. BRADLEY: No, it wouldn't the way it is presently written. Frankly, it is my feeling that we should let this go back to the committee and have a look at it for that very point; for two points really, to reevaluate the dollar amount and also this question of the financing institution having its first lien which I think is pretty legitimate criticism.

Sen. PRESTON: Do you think there could be an end result that the very people this was intended to help, it could hurt by drying up credit, let's say from banking institutions who might decline on the basis of marginal credit and it might force these people in low income brackets to go to that type of lending

insitution that charged a lot higher interest rate?

Sen. BRADLEY: I'm afraid that might be the result. That's why I say it would probably make sense for us to take this bill back and have a further look at it.

Senator Downing moved to recommit **SB 57** to the Judiciary Committee.

Sen. SMITH: Senator, I come from a rather poor district where we have a lot of people who live somewhat marginally, do not have a lot of assets, and if I were a banker and one of these people came in for a loan and it was on a second hand car and it was exempted from any kind of attachment, do you think Senator, I would loan money on that car?

Sen. BRADLEY: I have to assume you're a banker and not the generous man that you are. No, your point is well taken.

Sen. SMITH: I was looking over the list of exemptions here and it kind of interests me and I noticed under item #2 roman numeral two, the word comfortable beds. Senator, does this include water beds?

Sen. BRADLEY: Yes. That would include water beds.

Senator Blaisdell moved the previous question.

Adopted.

Division vote on the motion to recommit.

10 Senators voted yes.

12 senators voted no.

Motion failed.

Senator Bossie moved to indefinitely postpone.

Sen. BOSSIE: Mr. President, as you recall, last week we discussed in heated debate the question of mobile homes, as I think Senator Fennelly, the good Senator from district 21 pointed out to us a few minutes ago, this is substantially different from mobile homes. Very few people own mobile homes. Just about everybody owns a car. One of the problems with this attachment bill is if you would look at the document I placed on your desk. It's from the Revised Statutes Annotated, 511:2 provides the exemptions that under statute is provided to everybody, and this is a historical thing from 1862 when I think the moral fiber of our society was such that

everyone was expected to pay their debts, and at the same time those that did not pay their debts would end up in jail as we had at that time a debtors prison. As you know, since that time, things have evolved and the rights of people have become more liberal. That is fine because I too am against debtors prison and if somebody is unable to pay their debts and are adequate enough to go bankrupt then let them go bankrupt under the federal statutes. But I think the time has come to stop these exemptions for an automobile up to \$2000. As you know probably in the country one needs a car and I doubt that. In the city, they don't care about this because hey, you can take a bus anywhere you want or you can take a taxi. What this bill will do is it will hurt the credit of the low income people. The same argument as I used last week, it still is true today as it was last week. What it will do the way it is written is who in the world will lend you \$2000 to buy the car if the car itself is exempt for attachment? So somebody would have to be rather foolish to loan you, especially a low income person, loan you the \$2000 when you have no other collateral to buy a car because there would just be nothing to put up. I understand from talking with some of the Senators that a lot of banks just will not extend credit. Finance companies, these are the people, and I have no sympathy for finance companies, the people of lower income have to get their money from someplace and if we are going to allow exemptions of this nature then no longer will easy money or any money be assessable to our lower income people. I originally intended to amend this to do away with some of the other ridiculous exemptions. Did you know that there is an exemption in here from 1862 which allows an exemption of domestic fowls not exceeding \$150, a cow, a yolk of oxen or horse required for farming or teaming horses and 4 tons of hay, a hog, a pig, and the pork of the same when slaughtered, the debtors interest in one pew and in any meeting house in which he or his family usually worship. Well, I don't know about your religion, but I don't know of any religion that allows you to own your pew and I think this is a derivative from 1632. The fact remains that this is a bad bill. The question that was put to you by Senator Bradley as to the kind of car and how much it's worth is irrelevant. I don't care what it buys. A \$2000 exemption for a car should just not be made part of our exemption statute.

Sen. BLAISDELL: Would you be receptive to a lower figure than \$2000?

Sen. BOSSIE: No. I just think this is outrageous.

Sen. BLAISDELL: Have you ever had a constituent come in to you and say that he has lost his job, has filed for unemployment and the reason that he can't accept the job for instance 30 miles away is because he had no car to go to that particular job?

Sen. BOSSIE: Let me tell you what I'd tell them. And that has not happened and if Welfare wants to buy him a car, let them; but I don't see why the good people who pay their bills should subsidize the people who are not paying their bills. This is a deadbeat bill. What's going to happen if this bill passes is that sign that says Bien Venue to N.H.; its going to say Bien Venue deadbeats.

Sen. BLAISDELL: I didn't say, Senator, that Welfare should buy him a car. I said we are taking away. There's been a lot of people come into my area and say, Senator, I have been refused my unemployment, my car is going to be taken away from me or has been taken away from me, I can't get to the job 30 miles away and unemployment sometimes says if you refuse that job you lose that and then you go on unemployment.

Sen. BOSSIE Let me tell you, I have never had one of those; but I have had hundreds who have told me, if I lose my license because of drunk driving, I will lose my job and I will be on welfare and I sympathize with them, but not too much. What happens is let them find a way to work like everybody else. Everybody doesn't own a car, find a way to work if you want to work.

Sen. HANCOCK: I can see that I am here in the minority today. I just happen to think that people are basically honest. I think people intend to pay their bills for the most part. I don't really believe too much in the deadbeat syndrome that I have heard so often in the last couple of weeks and I don't think people want to be dependent and I don't think they want to go on welfare and for a long time I have been concerned with what I view as the too easy extension of credit. Banks, lending companies, stores of all sorts, service agencies and even charitable organizations make it much too simple for almost anyone to put himself in debt.

I am not unmindful of the benefits which installment buying have provided to the American people. Without it our standard of living would be very different. The working wife needs the washing machine, clothes dryer, freezer, etc. to

keep pace with both the job and the home duties. Incidentally, a new study by the U.S. Department of Labor indicates that the old fashioned typical American family with the husband breadwinner, homemaker wife and two children now only makes up 7% of the nation's families. Along with the growing trend among wives to seek employment comes statistics showing that more than half of the nation's 47,300,000 husband-wife families have more than one wage earner and in the state of New Hampshire, because of our low wage scale, there is a very high rate of both husband and wife working at full time jobs. Basic to those jobs is the use of the automobile.

The easy credit mentioned earlier very often deals the undisciplined and unsophisticated borrower to exceed his ability to pay, *Time* magazine of 2/28 made some points I should like to share with you.

1. "In the modern United States the affluent society has become the credit society and an insistence on buying only what can be paid for in cash seems as outmoded as a crew cut. Those who cannot get credit are second class citizens. Those who try to limit their borrowing are sometimes viewed as economic subversives as Times Joanna McGeary discovered when she confided to a Boston Banker that she rarely uses her two department store charge cards. Wailed the astonished Banker; "You're just not doing your part for the American Economy."

The banker has a point. Since 1950, while the U.S. population has grown 44% the total of consumer installment debt outstanding has multiplied more than 12 times to roughly 179 billion and that does not include home mortgage debts.

2. "Installment debts rose 10% in 1976, and Solomon Bros., a leading Wall St. Investment House, predicts that it will shoot up 12% this year. Says Lacy Hunt, a Vice-President at Philadelphia's Fidelity Bank; "the ability of the consumer to take on more debt will be the underpinning of the economy in 1977. This is the year of consumer credit." Listen to some of the credit possibilities. Nudist camp admission in Yugoslavia. Birth control counseling in Pittsburg, funerals in New York City, belly dancing in Atlanta, Las Vegas Hotel Casinos issue their own credit cards. In Buxport, Me. the law firm of Fellows, Kee and Nesbitt will let clients charge legal fees on Bank Americard or Master Charge (\$35.00 for drawing a simple will; \$300.00 for defending a client against charges of drunken driving)."

“Chemical Bank in New York City says it probably will grant Master Charge Cards to persons in their 20’s who have been employed for only 6 months and earn \$8,000 a year.”

”The common denominator of debtors in trouble is a kind of economic illiteracy. Some live up to the limit of incomes that are suddenly reduced by lay-offs or illness. Many ignore the extent to which inflation is reducing their ability to charge luxuries by raising the price of necessities. Most delinquent Debtors never ever add up what they owe until they are forced to and then they are stunned by the totals.

5. Borrowers in general are appallingly ignorant of the basic economics of credit. Says Boston Debt Counsellor, Mel Stiller: “People are not taught in school how to use credit and how to do family finance planning. They just never learn how to survive in modern economics.”

To the easy extension of credit to the undisciplined and/or unsophisticated, add inflation and the possibility of medical debts. The latter is almost inescapable in a society that finds many with no coverage at all, no major medical coverage and faced with ever increasing medical, surgical and hospital cost. All of my life, because of a long association with doctors and hospitals I have seen parents particularly and in some cases whole families committed to long, burdensome, and crushing payments for a single member of the family. I used to think it was bad in the 30s and 40s, and it was, but today’s prospects are equally horrendous in the occurrence of catastrophic illnesses and in fact ordinary short term illness not covered by accident and health insurance.

So easy credit, medical debts, inflation, unforeseen disaster which can and probably has come to each of us makes it necessary that we leave a person with some of the basics in life. I would be upset if Senator Bossie’s amendment prevailed, because it is an important commentary on New Hampshire History. It says in effect that New Hampshire lawmakers have through the years recognized that when disaster befalls a man he has to be left with certain basics—wearing apparel for himself and his family, a cooking stove, a sewing machine, provisions and fuel, tools of his occupation, a cow or horse when required for farming or teaming purposes and even an interest in one lot for burial in any cemetery.

Certainly in today’s world he must be left with an automobile. You are all well aware of the lack of public trans-

portation in this State, and you know the likelihood of that improving soon is very slim.

Those who work in the world of attaching property are often awarded as much as 50% of the sales value of the attached item. So you can be sure that they work with diligence. I hope we can remove from that diligence the value of \$2000 in a person's automobile.

This will not affect the new or used car dealer. This will not affect the banks who are making car loans. This will not affect organizations such as G.M.A.C. In short you do not have to worry about those in the business of lending money for the car itself. This deals only with attachment of a man's auto because of debt which might well range from the aforementioned Las Vegas Casino Gambling or cumulative factors over which he had no control.

I ask understanding for the person who encounters such plight. I hope you will support the "ought to pass" recommendation of the Judiciary Committee and vote down the amendment.

Sen. BRADLEY: Senator Bossie, wouldn't you feel somewhat differently about this bill if we made it clear that the lending institution makes it possible for someone to purchase a car on credit would have a good valid first lien, same as is the situation with the mobile home where the mortgage would take precedence over the homestead right. We amend the law with that respect and perhaps reduce the amount of \$2000 down to the value of Senator Lamontagne's car. Wouldn't you feel differently if we did those two things and wouldn't you think that's a good idea?

Sen. BOSSIE: No. I don't and I think Senator, no matter what you do with a bill like this it would exempt that and next year we will come in with something else, when are we going to stop. People have to pay their bills and if they over extend themselves, like Senator Hancock has said, that's too bad. They've got to learn and we by making it easier for them by allowing these exemptions are going to say do whatever you want because just about everything you do is exempt.

Sen. BERGERON: Senator, in reference to Senator Bradley's question on the exemption for the lien holder can you foresee situations, circumstances where a man, business man, or a friend may become involved in a loan type situation to help someone out it might make the difference with what the mans total overall assets are in order to loan him money?

Sen. BOSSIE: Yes. Thank you for asking that question because you just brought something else up. Do you know what will happen when this bill passes? It's not \$2000. If a man is married he and his wife both own the car \$4000, so you can trot around in your \$4000 car and still have it exempt for any attachments.

Sen. DOWNING: Mr. President, I arise in opposition to the pending motion. I think the subject is a timely one. I was somewhat disappointed that the suggestion of the chairman of the Judiciary committee that this bill be recommitted back to the committee wasn't supported by this body. I complement Senator Hancock for introducing the subject matter to this body. I think the problem here is the amount, the \$2000 and I think it's a serious problem, a very serious problem, unfortunately the committee apparently didn't go into any research as to what the average automobile loans are. I would feel that \$1500 is a lot of money to spend for a car. \$2000 is a great deal of money to spend in a total, never mind the amount of money you want to float on a loan and I think we have an awful lot of people driving cars that they paid about \$700 for which may not be financing the total amount of it; but I feel, as we recognize that a man is entitled to a minimum amount of protection for tools of his trade or a minimal amount of protection for his clothing or his home, the automobile today is not less than any of those things. If he is going to maintain his home and maintain his job, there are very very few that can do it without an automobile. Now we may not be able to drive the automobile we like, but it seems there should be some basic money left there be it two or three hundred dollars to allow you even temporary transportation to get around until you get yourself back on your feet, hopefully. I'd like to see something else done with the bill. I'd like to see the committee of the Senate explore it further. Maybe the figure should be \$200, not \$2000, but I think every individual if they are entitled to consideration for tools and clothing and housing are entitled to consideration for traveling. You just can't exist today without it.

Sen. LAMONTAGNE: I rise to support the motion to indefinitely postpone. I'm very much interested in trying to help the low income people. Low income people are the ones that are going to be involved in this matter. Let's look at the good people who want to pay their bills. Let's forget those that don't want to pay their bills. Let's look at those who haven't got a job. It's necessary for them to go to the bank to borrow

to get some transportation to get to work and if there is an exemption this bill is going to do, its going to make it real hard to go to the bank and be able to borrow. No one will want to take a chance on making any loan. Now some Senators mentioned about the mobile home, I don't think that you can compare a mobile home because a mobile home is a roof over someones head. A car is transportation but at the same time how long will the individual be able to run that car: He will rent it and if he is fortunate enough, and he doesn't have an accident, good. He will be able to run that car; but the minute that individual who has this car which has been exempt for \$2000 or even if its less, and has an accident is automatically going to be right off the road. He is not going to be able to drive that car. Because then he is going to have to file a financial responsibility under the ticket they call **FR 22** and thus be filed at the Motor Vehicle Department. That individual will have to get insurance and that insurance will run him at least three to four hundred dollars. Where is the individual going to be able to buy the insurance, when he can't even buy the insurance in the first place, so that's why I feel that this bill would hurt the low income people. It would hurt those who have no income because they would not be able to get a loan to be able to get themselves a car for transportation.

Senator Provost moved the previous question.

Adopted.

Motion to indefinitely postpone. Adopted.

SB 70, relative to the appointment and duties of the New Hampshire retirement system of trustees. Ought to pass. Senator Monier for the committee.

Referred to the Finance Committee.

SB 22, relative to food and nutrition programs. Senator Blaisdell for the committee.

Senator Blaisdell moved to recommit.

Adopted.

HB 32 and HB 95 will be held over onto Wednesday's calendar.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday at 3:00 p.m.

Adopted.

Late Session

Senator Brown moved to adjourn at 5:30 p.m.

Adopted.

Wednesday, March 16

The Senate met at 3:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh God, the creator of us all whom hath breathed upon us the breath of life. May we use it in a rightful manner, not in idle words or false promises, but rather for the edification and the uplifting of ourselves as well as the motivation of better conditions for our people.

Help us, therefore, Lord, to be true in all our doings working together conscious of thy judgment and held together by thy grace and guidance.

Amen

Senator Charles Evans Hughes and Representative John P. McKay, from Delaware, were introduced as guests of the Senate, and they led the Pledge of Allegiance.

Senator Saggiotes moved reconsideration of **SB 3**, removing

the authority of certain public utilities to grant free or reduced rate service in certain areas.

Division vote: 14 senators voted yea. 7 senators voted nay.

Adopted.

Senator Saggiotes moved to recommit **SB 3** to the Committee on Energy and Consumer Affairs.

Adopted.

INTRODUCTION OF SENATE BILLS

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 107-113 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 107, relative to non-confidentiality of proceedings of chiropractic review committee. (Saggiotes of Dist. 8—To Public Institutions)

SB 108, requiring the state board of education to establish state-wide educational standards which must be met before a student may be passed to the next higher grade. (Sanborn of Dist. 17—To Education)

SB 109, relative to apportionment of school moneys. (Sanborn of Dist. 17—To Education)

SB 110, relative to possession of account books and making of payments by a school district treasurer. (Sanborn of Dist. 17—To Education)

SB 111, to conform the state statutes and regulations to the requirements of the federal insecticide, fungicide and rodenticide act. (Bradley of Dist. 5—To Environment)

SB 112, authorizing payment to the city of Concord for use of solid waste disposal facilities by the state. (Sen. Hancock of Dist. 15; Rep. Cate of Merrimack Dist. 14; Rep. Stefanides of Merrimack Dist. 14; Rep. Johnson of Merrimack Dist. 15;

Rep. Watson of Merrimack Dist. 15; Rep. McLane of Merrimack Dist. 16; Rep. Wiviott of Merrimack Dist. 16; Rep. Blakeney of Merrimack Dist. 17; Rep. Perkins of Merrimack Dist. 18; Rep. Rich of Merrimack Dist. 18; Rep. Carroll of Merrimack Dist. 19; Rep. Valliere of Merrimack Dist. 19; Rep. Rice of Merrimack Dist. 20; Rep. Smith of Merrimack Dist. 21—To Finance)

SB 113, providing for a master plan for state land use in the city of Concord. (Sen. Hancock of Dist. 15; Rep. Cate of Merrimack Dist. 14; Rep. Stefanides of Merrimack Dist. 14; Rep. Johnson of Merrimack Dist. 15; Rep. Watson of Merrimack Dist. 15; Rep. McLane of Merrimack Dist. 16; Rep. Wiviott of Merrimack Dist. 16; Rep. Blakeney of Merrimack Dist. 17; Rep. Tarr of Merrimack Dist. 17; Rep. Perkins of Merrimack Dist. 18; Rep. Rich of Merrimack Dist. 18; Rep. Carroll of Merrimack Dist. 19; Rep. Valliere of Merrimack Dist. 19; Rep. Rice of Merrimack Dist. 20; Rep. Smith of Merrimack Dist. 21—To Executive Departments, Municipal and County Government)

HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 147, 377, 328, 288, 248, 257, 1, 156, 198, 323, 454, 307 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 147, relative to the employment of an auditor by a school district. To Education.

HB 377, relative to state aid for area vocational students. Joint Finance and Education.

HB 328, prohibiting the removal of sand or vegetation from a sand dune and providing a penalty therefor. To Environment.

HB 288, relative to emergency medical technicians. To Public Institutions.

HB 248, relative to firearms in the commission of felonies. To Judiciary.

HB 257, establishing a permanent joint legislative committee on elderly affairs. To Rules.

HB 1, relative to the fee schedule of the recording officers. To Administrative Affairs.

HB 156, relative to the property tax list. To Executive Departments.

HB 198, giving village districts the authority to maintain ambulance services. To Executive Departments.

HB 323, relative to loss of settlement for participation in local work programs. To Executive Departments.

HB 454, relative to the appointment of a health officer for a town. To Executive Departments.

HB 307, allowing town selectmen to set the beano fee from \$1.00 to \$25.00. To Executive Departments.

HOUSE CONCURS IN AMENDMENT

HB 31, making a supplemental appropriation to the adjutant general's department for fiscal 1977 and repealing restrictions on certain expenditures.

VACATE

Senator Rock moved to vacate **SB 91**, relative to confidentiality of legislative budget assistant working papers and access to records and documents to perform post-audit function from the committee on Rules to the Committee on Executive Departments.

Adopted.

COMMITTEE REPORTS

HB 32, relative to the duties of the director of mental health in regard to community mental health. Ought to pass. Senator Provost for the committee.

Sen. PROVOST: Mr. President, HB 32, this bill was requested by the Division of Mental Health in order for our state to be eligible for over a million dollars for community mental health for services. The state is required under federal regula-

tion to have a state plan for comprehensive mental health service for community mental health centers. Unless such a plan is submitted we will not receive the money. The Director of Mental Health shall be the one designated and will establish continuity from year to year for the preparation of the state plan. It is important that this bill becomes law as without it we will lose a considerable amount of money. The committee was unanimous.

Adopted. Ordered to a third reading.

HB 95, updating the cancer commission enabling act. Ought to pass. Sen. McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the Senate, HB 95 is a housekeeping bill regarding updating of the cancer commission. It is spelling out the duties of the commission and the executive secretary and makes a federal change thereafter. It's a situation where upon which they requested it to be done to clarify the laws of today and they claim this will be a whole lot better if we have this done at this time and request you pass it. It was unanimously agreed upon by the members of the committee. There was no one there to protest it, as it spells out the duties of the executive secretary which it never spelled out before.

Adopted. Ordered to a third reading.

HB 138, defining bodies of water 10 acres or more for the purpose of trapping. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: HB 138 was requested by the Fish & Game Department and presented by Representative Huggins. At the time it passed through the House it was amended and you have a copy of the amendment today. The House amendment primarily added a section on navigable tributary and redefined public waters as 10 acres rather than 20 acres. In addition to Representative Huggins at the committee hearing, Mr. Jones of the Fish and Game Department appeared in favor of the bill.

Sen. SANBORN: Senator, I'm a little bit dull here I guess. I'M trying to find out what a navigable stream is in this list of

rivers that was listed here, what do they consider to be navigable.

Sen. KEENEY: The list of rivers that is listed was not changed. Those are in the present statute. What was added was a description of navigable. The section is as follows: navigable tributary as used in this section shall be defined as those waters from the mouth of said tributary to a point up stream where a person can row a boat or paddle a canoe with the water in the stream is in its ordinary condition, are you looking at the amended version?

Sen. SANBORN: By ordinary conditions is that in the spring, midsummer, or . . . I'm kind of in a quandry, for instance, the Lamprey is listed here as one of them and in midsummer you can walk across it and not get your feet wet and right now you'd drown.

Sen. KEENEY: The Lamprey river I think is one that has not been changed in the current legislation to this bill. It is the tributaries.

Sen. SANBORN: It says water in the stream is in its ordinary conditions, I'm trying to get what the ordinary condition of the stream is. Is it mid-summer or spring?

Sen. KEENEY: I would assume it's at its highest point. We didn't ask this question at the hearing but an example was given of the reason for needing to define this further. And the example given was that trappers would go up stream as far as they could in their boat and when it got dry they would hop out and carry the boat a little farther until they could put it in water and continue. The intent is to stop this once you reach the point where your boat will no longer be servicable that you will then have to have permission from the land owners to continue.

Adopted. Ordered to a third reading.

HB 104, providing for the disposal of certain fish, game, fur-bearing animals and marine species. Ought to pass. Sen. Foley for the committee.

Senator Foley moved to recommit HB 104 to the committee on Environment.

Adopted.

HB 121, relative to town officers' associations. Ought to pass. Sen. Preston for the committee.

Sen. PRESTON: Mr. President, currently the statute limits the fees for its membership to \$10. This bill would increase it to a maximum of \$20. It must be voted upon by the membership, the association and approved by the local towns.

Adopted. Ordered to a third reading.

HB 241, repealing the requirement to print hydrophobia symptoms on dog licenses. Ought to pass. Senator Rock for the committee.

Sen. ROCK: Mr. Chairman we had testimony at the hearing on the hydrophobia laws they are now printed in approximately four point type if you can imagine that on back of a dog license. We all know that present statutes provide that the dogs must have their shots. There has not been a case of rabies for many, many years in the state of New Hampshire. What the town clerks would like to do is go to a carbonless form similar to the one that you have for your automobile registration and it just seemed an inaccrurism if you will that we are going back into the dark ages printing this very very long and complicated law on the back of a dog license that no one reads or cares about or uses at all. The committee was unanimous in its decision that we should change this law to permit an updating and modernization of the methods in which we license the dog.

Adopted. Ordered to a third reading.

Senator Bossie moved that **SB 89**, relative to the presidential preference primary and the choosing of delegates for the national conventions, be taken from the table.

Adopted.

Senator Rock moved to recommit **SB 89**.

Sen. ROCK: I understand that yesterday there was a rather lengthy, good debate on this issue. I think there was some things that came up in that debate that deserves further con-

sideration. I personally would like to testify before the committee on this bill now, which I would not do previously and I would certainly appreciate the Senatorial courtesy being allowed that opportunity if it's recommitted to the committee.

Sen. BOSSIE: Mr. President, I think that now when we have every Senator in the room that this bill should be either voted up or down. I would appreciate that the Senator from district 12 has not heard the debate but at the same time I would imagine having spoken with the members and colleagues that he would be very aware of the issues, and I would imagine that he would be in favor of the bill at any rate so I would ask us to vote no on the motion to recommit. I think we have done everything we can with this bill. If we are going to recommit, we are just going to delay this debate and this fight and this vote another week or three weeks when less than the full quorum would be here, or less when the full Senate would be here. I would ask us to vote no on this. Take the issue, present it head on. If Senator Monier and colleagues should prevail that's fine. That's the way it should be; but if I prevail and the bill is killed that would be fine too. I would ask you to vote no.

Sen. ROCK: Senator Bossie, prefacing my question with a statement, I had not made up my mind on that bill prior to yesterday's debate, and I was unfortunately unable to be here during the debate, would you not consider allowing me the opportunity to read that transcript, and knowing what I believe would be found in that to have an opportunity to go before that committee and testify further on a bill that has as many implications as that bill has. Wouldn't you allow me that courtesy?

Sen. BOSSIE: Well, I would hesitate to vote against that courtesy in that perspective; but as we have seen the other day, my discussion of when another Senator wanted a special privilege of this nature, it was granted reluctantly by some. I guess I would prefer Senator, that you withdraw your motion and if you want us to debate it all over again, I'll feel free to do my part, you have the other people do the other part. I'm ready to do it again for your benefit, or for the benefit of anyone. I think it's a bad bill and I think it will be a bad bill next week. You have to make your own determination whether you'd like to delay the progress of the Senate. It's just more work piling up if we keep delaying these bills.

Sen. ROCK: Senator, since your mind is so strongly made

up and so cast-in-bronze as it were, wouldn't you be willing to let another Senator make up his mind and face the issue without that kind of predetermined feeling?

Sen. BOSSIE: Well, let me put it this way, Senator. I suspect that you are knowledgeable of this as you are about many bills that come before us. I would doubt that this is the first time that you saw it. I'm sure you have spoken with your colleagues and our colleagues, so I don't think it's in that perspective that we face this vote. You know as well as I do what the issues are and so I would say let us vote today.

Sen. ROCK: Senator, do you know of any way that a Senator, in particular the Senator from the 12th district, could avail himself of yesterdays testimony and vote intelligently today without having first looked at that testimony.

Sen. BOSSIE: I would suggest in that instance, if that is what you prefer, I would suspect that Miss Aisner would have the courtesy Senator of recommitting it so I could read it and after the special order, and I'd be very prepared to read it in the interim and argue right after.

Sen. ROCK: If it is not prepared, would you then give me the courtesy senator of recommitting it so I could read it and look at it another time?

Sen. BOSSIE: Let me say this to you Senator, I'd be prepared to give you whatever you want; but at the same time you and your must be prepared in every instance when one of the Senators is absent from this room when a bill is taken up that you in turn, as well as I, must give this courtesy. Are you putting it in that light? I'd say I'd have to go along with it.

Sen. ROCK: Senator, I'm not sure I understand the comprehensive force behind your insinuation of you and yours? I'd ask you one final time, would you not allow me the courtesy to study those notes and if I find something in that testimony that I could not debate on the floor yesterday allow me at least to present it to the committee and then we bring it back and you may vote it down as you are so predetermined to do.

Sen. BOSSIE: Well, I haven't predetermined anything. I went to the hearing. I went to the Senate yesterday. I was here and I was willing to debate and I think everybody should have been here yesterday and I realize you probably were out due to some business or other very important matter. The fact remains that I give everyone the privilege that is due them and I have for the last five years. I think at one time if we are going

to play this, that's fine. But if we are going to do it for you, and you are certainly a fine Senator, then we must do it for everyone up and down this hall. I'm willing to do that, if we are willing to stay here until July 1 at 10:00 p.m. at night.

Sen. TROWBRIDGE: Senator Rock, I think this is germane to what Senator Bossie was saying. Can we, if we vote to recommit, be assured that when **SB 89** is voted on this floor that there will be 24 members present?

Sen. ROCK: Obviously Senator, I cannot guarantee that.

Sen. MONIER: I support the recommitting to the committee and I'd like to remind the Senate that Senator Bossie was right that he did appear before the committee and he did oppose the bill and I think at the time that I introduced it, I said so. That's not the question as far as I am concerned for recommitting it. I heard yesterday and I sat through the whole debate I've tried to hold up my end of it in terms of the chairman of the committee reporting it out. I'm a sponsor of the bill, I believe in the bill. I think it can probably use some additional things. But there was some comments made yesterday which were cut off after they were made by the motion to table which does not have any debate. One of which I want to respond to, first that it was a sour grape bill. I don't know what that reference was to but I rather suspect that it was to the fact that one of the sponsors was a Reagan delegate and didn't get elected. I assure you that is not the reason for the bill and I want it a matter of record also, so that we are not left with that impression. The bill was being drafted by Senator Sanborn and I during some of the interim study committee before that was over with so therefore that couldn't have been that kind of a sour grape bill if that was what was the matter. Second, I heard an awful lot of Senators in here that did have comments about the bill not at all bad, but asked a lot of questions which is what we are here for the debate and I think some of them were pertinent and should be incorporated in the bill; but I remind the Senate that there is no way that the committee can incorporate into the bill unless it is brought before them at the committee in terms of amendment and I repeat, Senator Bossie was the only Senator that appeared before that committee either against or for, except the two sponsors. So that as a result I would like it back in committee for the expressed purpose so that some of the comments that were made can be put into that bill and perhaps strengthen it. Therefore Senator Bossie and I are on the opposite side about that particular bill,

but not about the procedure on it. I had learned from the grape vine that this was coming off the table, I am the one who went to various Senators and I would like to ask its recommittal and for that I am perfectly willing to be the one that any kind of venom about it is directed. The purpose of recommitting it is so some precinct can be put back into that bill to strengthen it. It would also give the Senators additional opportunity to be present and testify whats in front of them about it. Thats based upon the premise that it is not necessary to kill the bill that we do want some kind of election reform whether this or not, and in no way at all does it stop future debate on this bill at a future time in response to Senator Trowbridge. As chairman of that committee, I can assure you that it will be back out and you would have an opportunity to vote on it.

Sen. LAMONTAGNE: Mr. President, members of the Senate, I rise in support of the motion to recommit. I was here yesterday and had listened to the different questions that had been asked of different Senators and, therefore, it was in the record that I consider it to be of great importance that is should go into the committee and for the committee to turn around and take some of the goods that were proposed on the Senate floor during the debate yesterday. Personally, speaking for myself, as far as **SB 89**, yesterday I was in opposition but some of the proposals that have been made during the questioning now has got me in doubt and, therefore, I personally feel that some of these recommendations that were made yesterday can be put in by the committee, I might change my mind and be in favor of the bill. So thats why I'd like to see it recommitted so that the committee could work on the proposal that was submitted on the Senate floor yesterday.

Sen. POULSEN: Mr. President, I arise in support of the present motion. Having tabled the bill yesterday I took that action because I could see there was a lot of trouble with the bill. I find things in it I'm in doubt about but there has been an awful lot of work done in making that bill as the result of many hours of work and I'd hate to see that much work thrown away. I think it would be much more economical if we took it back in committee and reworked it.

Sen. DOWNING: I arise in support of the pending motion. I have no problems with the bill going back to committee for further consideration and I think that Senator Bossie pointed out the deficiencies and the dangers in the bill very adequately

yesterday, and I'm sure if the bill were voted on now would be killed. But there are Senators who are concerned that there are areas that could be changed relative to our election laws of delegates and so forth and it should have the consideration, should have the opportunity to present their case before the Senate and, as Senator Poulsen said, it's far less expensive to do it this way than to have a new bill developed which could be done tomorrow. I think we should have the benefit of any opinions any Senators have any time they want to put in any measure. So I support the move to recommit so that Senator Rock may have what he feels would be important.

Adopted.

SB 47, providing for payment of a claim to Clayton F. Osborne and making an appropriation therefore.

Senator McLaughlin moved to recommit **SB 47**, to the committee on Finance.

Sen. TROWBRIDGE: Senator McLaughlin, what things have been brought before finance that your referring to?

Sen. McLAUGHLIN: My wording is incorrect brought to members of the finance committee.

Sen. TROWBRIDGE: Once the committee report gets on the floor isn't it pertinent to bring those things out on the floor rather than just in Senate Finance? What are we going to do in finance? Or bring them to me if your going to talk finance?

Sen. McLAUGHLIN: It was my intent, along with some other members that we discuss it in private rather than bring it on to the floor as to other income he had coming in during that period of time.

Sen. DOWNING: Mr. President, I don't think I have a particular problem with the motion in supporting it but because I was involved with making this a special order I think the Senate should know the basis of that at this time. I've distributed to each of you the sequence of events that led up to my asking for the special order in order to develop an amendment to put before you. If it's recommitted to the committee, the committee would have time to consider these things and I will leave it, up at this point. I have no intention of submitting an amendment to the Senate but I think the Senate should be aware of what action it took back in 1975 and the

events, up to today, that led me to offer the motion that I did. I think we did a very serious thing and I don't think we recognize the seriousness of it. Its affected an individual quite seriously and quite expensively, to the tune of over \$6,000, to establish their innocence, and I'm not sure we were fair and if we end up supporting the Senate bill I think consideration should be given to these expenses. Now as a result of my mentioning it the other day, I've been subject to considerable abuse by the Senator from District 1 and I have no desire to submit this body to it; but I just ask you to follow the sequence of events from the resolution of the Senate Journal of 1975, which a copy is here. The report of the Concord Monitor the day following, the letter from the Attorney General in response to my inquiry and the Attorney General's report, a letter sent to the Senate President from Mr. Harris dated February 22 which I got and in turn wrote to the Attorney General and requested a report immediately and the other documents including the itemized bill of Mr. Harris's expenses and I leave it to the Senate to decide what further, if anything, it wants to do with the bills of Mr. Harris.

Sen. LAMONTAGNE: Mr. President, I personally feel that the proposed amendment that had been proposed by the Senator for the special order is certainly not germane to the main motion which is on my bill in reimbursing Clayton Osborne for attorney fees. This is not germane at all to this and it should not even be here before this Senate. Personally, this matter is a local matter with the city of Berlin. I, being the Mayor of that city, and the majority member of the city council, definitely oppose of this Senate of taking such an action on such an amendment.

Sen. TROWBRIDGE: I am going to oppose the motion for one good reason. I understand Senator McLaughlin's motives here and I don't question them in the slightest, but this other information that has come up that he would like to present to the finance committee. At this point, I think it is pretty well known that Clayton Osborne's claim is somewhat notorious around here. I see no point in the Senate Finance Committee sitting there all by themselves, 8 members, hearing the testimony which is supposed to be determined of the case and then not being able to put that full testimony before the full Senate, or the natural question would be from anyone on this full Senate what did you say in senate finance and we will have to go through the whole thing again on the Senate floor. And

so I think that it is important that we at this point, having this thing go as far as it has, not send it back to Senate Finance. Anybody who has extra information about the claim is entitled to put it before the entire 24 members and let's give Clayton Osborne his due before the full Senate and not in some sort of club atmosphere in the Finance Committee. So I hope you will vote not to do it and we go on and get this thing out of the way now.

Sen. ROCK: Mr. President, I arise at this time in strong support of my colleague from the 13th district. I think what Senator McLaughlin has said to us is worthy of consideration. I think that the eight members of the Senate Finance as Senator Trowbridge well knows, have minds of their own to make determinations, their original determinate was one of inexpedient on this and the majority report and perhaps there is something which would change that majority to look otherwise at the claims of Clayton Osborne. I also think that we are dealing with a strong personnel matter here and it is not unusual in cases of that type to deal with them in committee for whatever reason. So I would support Senator McLaughlin.

Sen. MONIER: Am I to assume that this was material with respect to which you desired a special order of business for and asked for the courtesy of the Senate?

Sen. DOWNING: Not entirely, Senator. This material was either in my hands or was coming to me and I thought I was going to prepare an amendment to put onto this bill that would reimburse Mr. Harris over \$6,000 in funds which he expended in. . . Its all explained here. I'm not submitting an amendment to the Senate, and I thought I owe'd an explanation to the Senate because of the courtesy extended to me on the basis for my requesting it and, instead, I feel it's up to the Senate on a broader plain to decide what it wants to do when it sees the fat here and I just offered him there and that was the basis of my request. I'm not submitting an amendment. I have no intention, I have never met Mr. Harris in my life, I don't want to get involved with his business and so forth. I'd like to keep it seperated but it appears that it's something more than I would have to want to undertake in this Senate if its going to be done. I'd rather have it done on a broader plain. So I submit the basis for it. The Senate can do as it pleases.

Sen. BLAISDELL: Senator McLaughlin, is it my understanding that you have discussed this with other members of Senate Finance that you do have some new information?

Sen. McLAUGHLIN: Several of them yes. That is true Senator.

Sen. BLAISDELL: Did you discuss it with Senator Trowbridge?

Sen. McLAUGHLIN: No I did not.

Sen. BLAISDELL: Did you discuss it with Senator Blaisdell?

Sen. McLAUGHLIN: I did not.

Sen. BLAISDELL: Did you discuss it with Senator Saggiotes?

Sen. McLAUGHLIN: Yes I did.

Sen. SMITH: Senator, if this bill is brought onto the floor, is it your intention to bring some amendment for it relative to the Harris situation?

Sen. DOWNING: It is not my intention at this time, Senator.

Sen. SMITH: If you are concerned about the Harris situation you could then at some time introduce a piece of legislation which could take care of that situation?

Sen. DOWNING: That's possible, Senator.

Sen. LAMONTAGNE: Mr. President, members of the Senate, as you know I have sponsored this bill in good faith for a man I've known for 23 years. I have known this man to be an honest man and I personally feel that he did no wrong. Otherwise, I would never have introduced this type of legislation. Clayton Osborne has been good public servant for the many years that I have served in this Senate. Now I am sitting in a position where some of my friends wish to recommit, and I have some of my friends that want to take action immediately. Therefore, being in this position at this time, I personally feel that the only thing that there is in the bill and I cannot see where anything else could be added that it would still come out the same if it did go back to the Finance Committee: because the bills says to reimburse for legal fees for Clayton Osborne. I ask you to vote no on the motion to recommit, and I'm asking you to take action immediately today, whether you're for or against. I'm asking you to take action now, and urge you to vote in support of an honest man. He has been cleared by the Commission of Personnel as not having done anything wrong.

Sen. SANBORN: Mr. President, I arise in support of the motion of the Senator from the 13th district. I would say that there has been considerable discussion in the halls on this and

I, too, have been told that there are certain activities that Mr. Osborne, perfectly legal, engaged in; appeared that he was supposedly laid off from State service. I would like to look a little bit further into those. Receive some actual evidence either pro or con and we had a hearing on this bill, I don't think I mentioned it in my earlier statement when I gave the majority report that the only person to show up before the senate finance committee was Clayton Osborne. I don't think he would be against the bill anyway. That's the only evidence we have right now. I'd like to see this come back to get a few more people to testify.

Senator Bergeron moved the previous question.

Adopted.

Motion to recommit, division vote:

10 senators voted yea. 13 senators voted nay.

Motion failed.

Motion to substitute the words "ought to pass" for the words "inexpedient to legislate."

Senator Bossie requested a roll call.

Seconded by Senator Blaisdell.

The following senators voted yea: Lamontagne, Smith, Bradley, Saggiotes, Blaisdell, Trowbridge, Hancock, Fennelly, Downing, Preston, and Foley.

The following senators voted nay: Poulsen, Gardner, Bergeron, Monier, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown, and Bossie.

11 yeas 12 nays

Motion failed.

Inexpedient to legislate. Adopted.

Senator Smith moved reconsideration of **SB 57**, making an

automobile to the value of \$2,000 exempt from attachment and execution.

Sen. SMITH: I move reconsideration, but I will vote no on reconsideration. The only reason I move reconsideration on this bill was as a courtesy to Senator Bradley who indicated that he wished to make some statements. I believe to correct some statements which he made yesterday.

Sen. BRADLEY: Mr. President, I wish to apologize first to the Senate because I don't want to rehash old ground and to some extent we risk doing that, and I want to thank Senator Smith for the courtesy of allowing me this opportunity in making his motion. The point I want to make on this is that I believe yesterday, and the answers to the questions which I gave to several Senators on this question, I was probably in error as to what the law is and I feel badly when someone convinces me that I probably stated something wrong as far as the law, because I hold myself out as being knowledgeable in the law. The law, as I understand it, looking at the memo prepared by Mr. Burkham is that the bank would get the first lien on the car and could get a valid first lien on the car, and that was a large part of the debate and I think probably a large part of the reason for people voting against it, when I realized I had problems supporting the bill for myself. I think that I am wrong on that. If the Senate saw fit I would like to have the bill back into the committee so that we get that point nailed down, so that I know which way it is. I don't want to set off a long debate on this again, but I do want to make that point that I think I probably told you incorrectly yesterday and if you were so moved, I'd like to have the thing back into the committee. That is what we tried to do yesterday. I understand the Senate decided not to do it. But I just wanted to make that point.

Senator Monier moved that the motion to reconsider be laid on the table.

Adopted.

Senator Lamontagne spoke under Rule No. 44.

Sen. LAMONTAGNE: Mr. President, members of the senate, I just received a phone call from Washington from Senator Durkin and he has just informed me that the President of the United States has called him about a half hour ago and has mentioned to him that New Hampshire would receive the one million two hundred thousand dollars in addition to the public works funds and the same time the city of Berlin is to get that one million two hundred thousand dollars.

ANNOUNCEMENTS

Senators Bergeron, Brown and Sanborn are also sponsors of SCR 4, to petition Congress to call a convention to propose an amendment to the United States Constitution to require a balanced federal budget, except in a national emergency.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday at 1:00 p.m.

Adopted.

Late Session Third Reading and Final Passage

HB 32, relative to the duties of the director of mental health in regard to community mental health.

HB 95, updating the cancer commission enabling act.

HB 138, defining bodies of water 10 acres or more for the purpose of trapping.

HB 121, relative to town officers' associations.

HB 241, repealing the requirement to print hydrophobia symptoms on dog licenses.

Adopted.

Senator Gardner moved to adjourn at 4:40 p.m.

Adopted.

Thursday, March 17

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Today, Lord, let us rejoice as we go back in time and remember thy servant Saint Patrick. Many fables have been attached to his name, but the outstanding tried and true stories have come through the centuries giving peace, prosperity, joy, and comfort but most of all Faith that changed the lives of so many that we are still celebrating his memory.

Therefore, let us too be filled with such zeal of spirit and make a commitment to ourselves this very day that we too can go down in history for the difficult solutions we strive for and accomplish during our hopefully humble and thoughtful sessions.

Help us oh Father.

Amen

Senator Monier led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 114-118 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 114, authorizing the inclusion of dog races in sweepstakes and drawings conducted by the sweepstakes commission. (Rock of Dist. 12; Jacobson of Dist. 7; Lamontagne of Dist. 1; Brown of Dist. 19; Monier of Dist. 9; McLaughlin of Dist. 13—To Ways and Means)

SB 115, requiring the fish and game department to stock south pond in the town of Stark. (Lamontagne of Dist. 1—To Recreation and Development)

SB 116, requiring proof of financial responsibility for the operators of mopeds. (Lamontagne of Dist. 1—To Transportation)

SB 117, relative to the statute of limitations on an action for paternity. (Monier of Dist. 9—To Judiciary)

SB 118, relative to reporting all resources received by a welfare recipient. (McLaughlin of Dist. 13—To Administrative Affairs)

HOUSE MESSAGE
HOUSE CONCURS

SB 35, relative to the incompatibility of certain town offices.

ENROLLED BILLS REPORT

HB 37, relative to the taking of wild deer in the town of Chester.

HB 31, making a supplemental appropriation to the adjutant general's department for fiscal 1977 and repealing restrictions on certain expenditures.

Sen. Lamontagne for the committee.

COMMITTEE REPORTS

SB 33, relative to the duties and responsibilities of the property appraisal division of the department of revenue administration. Ought to pass. Senator Brown for the Committee.

Sen. BROWN: **SB 33** refers to Chapter 71-a:31 refers to the

property appraisal division of the Department of Revenue Administration and what it does is that it deletes the words "conduct investigation of assessment practices of cities and towns as requested or directed by the board of taxation." The reason being, three and a half years ago when the tax division was restructured, and renamed, the Board of Taxation became a distinct separate agency within itself. It's no longer connected with the Department of Revenue Administration. But this wording apparently leads people to believe that requests for reassessments, reappraisals in towns and cities that their applications should be referred to the Department of Administration which it is not. This will clarify it so the applications will go to the Board of Taxation.

Sen. TROWBRIDGE: There is nothing happening here that will prevent a town community or citizens of that community for saying we want to have someone investigating the assessing practices of this town. We think they are unfair, that there is still an agency in this state that will do that?

Sen. BROWN: That is true. Must have a petition of 50 or more signatures and they will make that application, refer it to the Board of Taxation. Individuals it still stays the same. It does not change.

Adopted. Ordered to a third reading.

SB 82, relative to the director of forest and lands and the director of parks. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to **SB 82**

Amend RSA 218:12 as inserted by section 10 of the bill by striking out said section and inserting in place thereof the following:

218:12 Plans. The director of the division of forests and lands shall, upon request and whenever he deems it essential to the best interest of the people of the state, cooperate with counties towns, corporations and individuals in preparing plans for the protection, management and reforestation of woodlots and timber tracts, on such terms as the commissioner of resources and economic development may approve.

Amend the bill by striking out all after section 13 and inserting in place thereof the following:

14 Division of Forests and Lands Personnel. Amend RSA 218 by inserting after section 12 the following new section:

218:12-a Entry upon Lands in the State. For the purposes of performing the duties under RSA 218, it shall be lawful for the director of forests and lands, his assistants or agents to enter upon any lands in this state.

15 Effective Date. This act shall take effect 60 days after its passage.

Sen. POULSEN: Mr. President, this bill comes out of the committee that studied forest laws. Actually there were two bills that covered the same subject. One was House Bill 314 and the Senate Bill. We didn't realize that Legislative Services had drafted the same subject twice under two different headings, so we killed the House Bill in committee and let the Senate Bill ride but we took part of the House Bill which was not on the Senate Bill. Part of the bill was originally to eliminate wrong usage of the new title of the director of Forest and Lands, who is Ted Natti in this case, the State Forester. Well in the bill, even then, it was left in one place. The amendment takes out one of those references and also adds the new part which is the ability of the forestry people, not only for fire protection but also for emergencies of other types such as insect infestations and disease. It gives them the same privileges as they already had to combat fires. Other than that, the bill delineates the difference between what's on the amendment and the bill. The bill, except for that, only delineates the difference between the Director of Parks and the Director of Forest.

Amendment adopted. Ordered to a third reading.

HB 5, relative to regulating the licensing of cosmetologists. Ought to pass. Senator Healy for the committee.

Sen. HEALY: Mr. President, this bill concerns the cosmetologists, the bill making the beautiful lady more beautiful. There are two phases. One concerns a cosmetologist who is a licensed cosmetologist in the state and becomes an instructor.

In lieu of taking an extra course to do that, this bill recognizes that a cosmetologist with a year's experience could be eligible to be instructor. The second phase of the bill concerns the cosmetologist possibly having to use a needle where hair is removed and that entails electrolysis. Electrolysis is a different phase of beautician. Usually they are registered. Electrolysis could entail medical difficulty as a result of an electric needle. We would like to have that definition removed. This report came out of committee as ought to pass.

Adopted. Ordered to a third reading.

HB 90, limiting the availability to foreign partnerships of certain trade names. Ought to pass. Senator Brown for the committee.

Sen. BROWN: HB 90 was requested by the Secretary of State. Under the present law the Secretary of State had the authority to refuse anyone a title if it is similar or identical. He does not have that authority at the present time if its a foreign company, and foreign doesn't mean out of the country but it means neighboring states or any other state in the union. This bill will give him the authority to say no you can't have that name because it is identical or very similar to another one.

Sen. BRADLEY: Senator, I was a little surprised to see this, because I assumed that it was already the law. Is it clear that foreign partnerships have been able to register similar trade names?

Sen. BROWN: It was so stated in testimony by the Secretary of State.

Adopted. Ordered to a third reading.

HB 204, repealing RSA 312 relating to auctions of personal property. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill eliminates or repeals that Chapter 312 of the RSA. The auctioneers under this chapter were very tied down by things they had no control of. The amount of gold in a candle stick or silver in a candle stick and things like that. Apparently this whole chapter had come into our laws from trouble that had ensued from auctioneers coming in from down country and having jewelry auctions.

I'm not familiar with the circumstance. But all the auctioneers told about it. Apparently there was gold plated things that sold for solid gold and people got taken. Under this bill, that chapter is eliminated and goes under their own laws which have already been accepted by the Secretary of State and are in the RSA under two different chapters. They have an Association of Board of Licensing. They have all kinds of detection; there is no question of their being reputable; but they'd be a lot more comfortable without this chapter.

Adopted. Ordered to a third reading.

INTRODUCTION OF GUESTS

HB 152, relative to personal property inventory forms. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to HB 152

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Effective Date. This act shall take effect April 1, 1978.

Sen. POULSEN: Mr. President, the amendment shows in the book and has only to do with the date the bill becomes effective. It makes it come effective April 1, a year from now instead of this year.

Sen. BOSSIE: Senator, is it not true that the house amended this bill and it's in page 244 of the House Journal?

Sen. POULSEN: It could have been amended before we got it. The bill we have, the only amendment we have is the one that changes the date.

Sen. BOSSIE: Well, Senator, if I were to tell you that on page 244 of the House Journal there is an amendment in there that obviously had been adopted and now it has come before your committee with something that is a very significant bill, would you enlighten us and the entire Senate as to what exactly this will require individuals owning property in the State of New Hampshire after that date?

Sen. POULSEN: Senator Bossie in answer to your question I'll be more than happy to call for a minutes recess to see

what that amendment is that you are referring to.

Sen. KEENEY: Was the amendment to change the date to '78 merely because someone thought the bill couldn't get through in time for this year?

Sen. POULSEN: That is exactly right Senator. They had originally wanted the bill in effect this year, hoping the penalty's would accrue for delinquent forms this year but knowing that some forms have already been out in the month of March, it had to be changed by a year.

Sen. KEENEY: I thought the forms were sent out to people to file as of April 1, are some towns not following that?

Sen. POULSEN: I think most towns send them out ahead of time so that you can file them by April 1. Not on April 1 but by April 1.

Admendment adopted.

Sen. SANBORN: Now, Senator looking at the bill and also the amendment that Senator Bossie had pointed out on page 244 of the House Journal. Penalty for failure to file—any person who fails to file a fully completed, those are the two words that I want to question. Who is going to say whether this form is fully completed or not? How does a person fill out this form figuring he has done it completely and know that the selectman are going to receive this as a fully completed form?

Sen. POULSEN: Senator, to answer your question, I don't know. I don't know if it says the form is fully filled. I presume it meant reasonably filled out rather than being a cut and dry qualification of what is fully or what isn't fully. I think it should be a reasonably filled out form.

Sen. SANBORN: I ask this question, Senator, for this reason; quite often when I fill out the request on the area and describe my piece of property, land and buildings on the south side of the middle road in Deerfield, consisting of so many acres, cape cod type house with attached shed. Now the selectmen may be mad at me and they say that I'm incomplete because I didn't give the boundries exactly of that piece of land. Am I considered incomplete or not?

Sen. POULSEN: If I were your selectman, I would say you did a fine job, Senator.

Sen. POULSEN: The bill itself is introduced with a group of sponsors. There might be some question of the acceptability so I looked the bill over carefully myself. I'm in

favor of the bill. It does several things. One, it repeals RSA 74:4 roman III & IV. I checked that out and I checked it out with the Department of Revenue and they do think that both those should be repealed. They are not being used at all. One of those is the one that says how many people slept in this place during the year and that had originally been put in to give figures to the rooms and meals tax and it is no longer used by the Department of Revenue. The have men in the field who check on all hotels and rooming houses, so that part is no longer used. The other part again I thought was necessary that had to do with homestead. That is actually repeated in the last part of the inventory form. I wish I had a form with me but the last part is the part that makes you give each person who lives at the residence their name, age, the whole bit and that is used by the Department of Revenue for all kinds of things. The elderly exemptions, all those things, are taken out of that part of the form and apparently it's very, but not essential, very handy for the Department of Revenue to have that information available. The only way it is available is with the inventory form, in which case each landowner in a town says to the town what he owns. One of those has to do with the appraisal of the place, you no longer have to use. That's one of those chapters that says my own appraisal, my own valuation. That isn't used because historically everyone who is honest enough to try to do that called up the selectman and said what is my house valued at? And they take that value. They didn't dare put a higher one because they might be taxed more and they didn't dare put a lower one in case they wanted to sell it. What this boils down to is simply it's been mandatory for years to send back, it says you must send back the inventory form; but there is no penalty on it. The only penalty and it's a very weak one that if you don't you can't request an abatement. That's all there is to it. This is only putting teeth in the law that says you must send it back. Because now it says if you don't send it back they'll fine you. That's what this whole bill is, that's the concept. I think it's a good bill.

Sen. TROWBRIDGE: Senator Poulsen, if I do what I've done every year for at least 10 years and saying same as last year and return it, is that fully filled out?

Sen. POULSEN: Senator you'd be doing exactly the same thing I've always done.

Sen. HEALY: Just what is done with these forms when

they are finished with them? Do these towns or cities keep these on file?

Sen. POULSEN: The towns keep them on file, I don't know about cities. Towns keep them on file. They pick up information from them. Mostly, they are not used at all. Many of them just go right into a file. The only time they are used are accumulative figures that are needed for the State's school money. I still think they are used to some extent though, I think the figures are gotten some other way such as rooms and meals tax. They are used on figures that the town accumulated and sends to the State. I don't think the State ever cheated them.

Senator Saggiotes in the chair.

Sen. HEALY: On these forms they do have sections to say whether or not you are a war veteran, which you apparently tear off when they exempt the valuation of \$1000 for each taxpayer. That's the only practical thing on the form. In my city they hire about seven or eight people just to have these processed. Once that's done they are piled in a corner and they become I think practically of no use whatsoever. I don't know why we need this form in the first place.

Sen. POULSEN: Senator, we need it for many things. One particularly important thing is it says in the books you could have brought it or sold it until the transfers came back to the town which would effect the tax. The second thing this gives the town a complete year by year inventory of people, a census. Rather than going back to 1970 now, that has effect on towns like Berlin, who have to apply for federal monies for different things. The population may have a drastic effect on the availability of those monies to a town. Current census figures, it does all kinds of other things. It will if it's mandatory to send them back, eventually the current use abatement has to be handled separately. They have to send those in every year. Yearly forms can be done out of this one form. It's actually a smart procedure I think.

Sen. ROCK: There is going to be a new source of revenue created here, was there any testimony given on what amounts of revenue they think there is going to derive from people who are delinquent?

Sen. POULSEN: I think, Senator, they figure on zero money and I think they hope it would be a mechanism to get the forms in and not a source of revenue.

Motion of ought to pass—Division vote—12 senators voted yea, 9 voted nay.

Senator Blaisdell requested a roll call. Seconded: Senator Downing.

The following senators voted yea: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Monier, Keeney, Hancock, Sanborn, Provost, Brown, and Preston.

The following senators voted nay: Blaisdell, Trowbridge, Rock, McLaughlin, Healy, Bossie, Fennelly, Downing, and Foley.

13 yeas 9 nays

Ordered to a third reading.

HB 19, to reduce the mandatory period for impoundment of dogs and other animals and to increase pound fees. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, HB 19 was requested by many of the State's Humane Societies and has the approval of the State Department of Agriculture Veterinarian. It does three things. One, it decreases from 10 days to 7 days the impoundment period for dogs. It was the testimony of the humane society directors that most animals are claimed within a week if they are to be reclaimed at all, and to keep for 10 days increases the cost to the humane societies and precludes their putting the dog out for adoption until the 10 days have elapsed, and secondly it increases the maximum pound fee from \$2.00 per day to \$3.00 per day, and thirdly it redefines an abandoned animal as one whose owner refuses to reclaim within seven days or an animal left at the animal center by a person unknown or by an owner giving a false name or false address.

Sen. BOSSIE: Senator, I would like to know whether under the definition as you gave it to us whether these humane societies could be wanting to shorten the period not for the

purpose of putting them out to adoption but for the purpose of killing them?

Sen. HANCOCK: Yes they can. They also have that option if the animal has been found to be diseased. I think they have that under another law, however.

Sen. BOSSIE: Well, if I were to vote for a bill of this nature and if I were to ask the other members of the Senate to vote for it wouldn't it be a wise move to provide a longer period for the adoption, but a shorter period for the time for which they may place this dog rather than for killing the dog?

Sen. HANCOCK: No. I don't think so. The testimony of the Humane society directors I think was rather clear on that point that number one if there was an opportunity to reclaim your dog, it's done so within seven days. If the dog was brought in and for any reason sick or diseased then it should be taken care of immediately, if there is a longer period needed for the adoption process, the dog will stay there and be adopted at a later point.

Adopted. Ordered to a third reading.

HB 100, relative to placing the Exeter police department under the control of the town manager. Ought to pass with amendment. Senator Preston for the committee.

Amendment to HB 100

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Referendum. This act shall not take effect unless it is adopted by a majority vote of those present and voting at the annual town meeting in the town of Exeter to be warned and held on March 14, 1978, or if the selectmen so decide, the question of such adoption may be submitted to the town at a special town meeting warned and held at an earlier date for that purpose. The selectmen shall include in the warrant for said annual or special meeting the following article "To see if the town will vote to adopt the provisions of 'An act relative to placing the Exeter police department under the control of the town manager' enacted by the 1977 session of the general court.'" No official ballot shall be used for the voting on said article. If a majority of those present and voting on this ques-

tion vote in the affirmative, this act shall be declared to have been adopted. Within 10 days after said referendum the town clerk shall certify to the secretary of state the results of said vote.

Sen. PRESTON: Mr. President, the amendment really only changes the date to March 14 of next year. This bill removes the Exeter Police Department from control of the selectmen and puts it under the control of the town manager. In 1957 the Exeter police were under a three man commission appointed by the Governor and Council and in '57 the people voted to abolish the commission, and the legislature gave the control of the police department to the selectmen. In an incident two or three years ago, the town manager wanted to fire a policeman for valid reasons but could not do so. The selectmen are in firm accord with this bill. It must go to the next town meeting to be voted upon by a majority of the people.

Sen. FENNELLY: Senator Preston, in the hearing was there opposition to this particular bill?

Sen. PRESTON: There was no opposition whatsoever. The representative who sponsored this is now a member of the board of selectmen, and there was no opposition whatsoever to this bill.

Sen. FENNELLY: For my information, how many members are Exeter selectmen?

Sen. PRESTON: I believe it's five. This puts the police department in line with all the other town departments in the town of Exeter.

Sen. BOSSIE: Senator, I find it very interesting in the text of your bill, the provision that no official ballot is going to be used for this decision, and rather that you are going to have the decision made by the town meeting, when as we know substantially fewer people attend the town meeting than vote in the annual town election in March of each year. Why is this done?

Sen. PRESTON: Well, it's going to be posted in the warrant for an annual or special meeting and they will be forwarded and posted in public places. I don't think it will be decided on on any different basis than any other articles would on town meeting day.

Sen. FOLEY: Senator Preston will there be a fine of 2% or anything on people who don't show up within the certain number of days?

Sen. PRESTON: I don't think so Senator Foley. It's a result of President Carter's visit to Clinton Mass yesterday. He has spotlighted the importance of town meetings and I think there will be greater attendance in future years.

Sen. SANBORN: Senator, the line of questioning that Senator Bossie just brought out is a bit interesting. If I'm not mistaken, the voting population of Exeter is several thousand is it not?

Sen. PRESTON: Yes it is.

Sen. SANBORN: And as I remember the town hall down there, I don't see how you can get several thousand in there to vote at a regular town meeting.

Sen. PRESTON: Is that a statement or a question?

Sen. SANBORN: It's a question. How do you get them in, several thousand in a small room?

Sen. PRESTON: Well they have managed to accomodate their voters over the years, I imagine they would move to the high school gymnasium or something.

Sen. FENNELLY: I rise in opposition to this bill, I think basically, to give that power to a city manager, who has always been under the jurisdiction of the selectmen. I am familiar with the city manager in Exeter. He was the city manager for 13 years in the city of Dover and I know from personal experience what has happened to that police department. He left about a year and a half ago and I urge the full Senate to reject the committees report.

Sen. MONIER: Mr. President, I rise with some trepidation because of the line ups we have on these and I also will preface my comments that I can understand now why the President of the Senate has trouble getting reports in. If you send in a group of them they become a shooting gallery and I think E And A has it's day today and that's fine because we hope we've done most of the homework on these bills. In response to all of this, and in support of the bill, one, there was no opposition at the hearing, two, the selectmen that did appear did appear as Senator Preston indicated with a letter of support from the selectmen. It would seem to me that there is an option provided here, all of which falls in what we have put forth as far as the strength of New Hampshire and certainly the people of the town of Exeter are well aware of the situation because it has been a situation that has existed there for some time and I think they can make their own judgements.

All we are doing is giving them some legislation allowing them to do it. I hope we would pass the bill.

Amendment adopted. Ordered to a third reading.

HB 60, relating to registration and examination fees for professional engineers. Ought to pass with amendment. Senator Preston for the committee.

Amendment to HB 60

Amend the bill by striking out section 7 and inserting in place thereof the following:

7 Effective Date. This act shall take effect July 1, 1977.

Sen. PRESTON: I rise with some reluctance to report for this committee any further today Mr. President. HB 60 increases the professional engineers examination fees and abolishes an outdated veterans clause. It has no effect whatsoever in the veterans issues of today. This was something on the books prior to 1945. This, as will be explained in the following bill that I hope to report, will explain the needs for the board to maintain itself. Make themselves self-sufficient because of the increased cost in the examination procedures.

Sen. BERGERON: Senator, this increase in fees how much money does that amount to?

Sen. PRESTON: The 1976-77 amount was \$43,142 and 76 was \$33,000 and 78 is predicted to be \$49,440, and 79, \$51,640, and I might add it's customary for the board to return 10 to 30% of their own appropriations to the general fund.

Sen. BERGERON: If I understand this correctly Senator, in 1978 there is going to be an increase of approximately \$16,000 in their budget, in 1979 there's going to be an increase of some \$28,000 for their current budget, is that correct?

Sen. PRESTON: Well, if you are judging on the basis of \$43,142 in 1977?

Sen. BERGERON: I'm sorry, I thought you said \$33,000.

Sen. PRESTON: No, '75-'76 their revenue was \$33,000.

Sen. BERGERON: This money stays within the department? However, you said its been a matter of practice that they remit some 20% back to the general fund?

Sen. PRESTON: Yes. But the increase costs and the

operating funds and exams necessitate the increase.

Sen. BERGERON: The only thing that bothers me, is you have additional monies being generated and kicked around; has this bill been discussed in Senate finance and if not, should it not be sent there?

Sen. PRESTON: I think that the next bill which will be reported out will automatically be referred to Senate Finance. I've discussed this with Senator Trowbridge and it will go down to Finance for consideration.

Sen. MONIER: There is really two bills here. One is a request for a supplemental appropriation for this year, and this is for the expressed purpose of raising a fee so that it won't be necessary in the following years in terms of a budget. They should be referred to Finance. Mr. Lyons who is the chairman of the registration board has a real problem with this. They are registering and testing and putting forth quite a few engineering students and particularly the University of New Hampshire graduating class and one of our other college graduating class are coming up sometime in April and May and that really applies to the bill, I believe it's 120; but at the same time this present registration fee of \$10. Now I used the term self-sustaining, Senator Bergeron, in our little conversations here, but actually the Engineering Board and Registration Board usually return it. It does not keep, it lapses. They turn it back, that was the testimony at least, back to the general fund. It is usually 10 to 30% of their total amount that they have collected through the year. I just wanted to explain those offerings and whether those are correct or not, I don't know except that is what was testified.

Sen. TROWBRIDGE: Just so we understand how all boards work. All their revenue goes into the general fund except for maybe two that are restricted by statute. What we have tried to do is to say that their revenues should be 130% of their collections even though they don't keep the money and parcel it out. It goes into the general fund and they use 70% of it and the other 30% goes to the general fund. If you have a board and commissions collecting fees far in excess of the actual expense of running the board or commission, there is a constitutional question as to whether you can do that and this is something we are going to be faced with as we go down the line. We have a bill that's coming in on raising fees in general, which the Governor recommended, because if you don't take those raises and allocate them to the board at least to about

the 70 or 80% level, then it's no longer fee, it is attached. So I think it's just as well to bring that out now while we are discussing it and of course the misapprehension that somehow the professional engineers keep the money and pay 30% back to the state. That's now what happens, it goes to the state and they draw upon it, the general fund.

Sen. MONIER: Is it not correct, Senator Trowbridge, that it is self-sustaining even though it may not be used in proper terms. The fees are estimated by the Finance Committee?

Sen. TROWBRIDGE: Of course it's self-sustaining. No one said that it wasn't.

Sen. KEENEY: On the amendment as printed on page 8 is there a misprint because it reads the same as my bill reads?

Sen. MONIER: We are still talking about HB 60? I don't have the amendment in front of me. The house had amended it at an earlier date and the request was then put before the Senate to put it back to what it had been originally.

Amendment adopted. Referred to the committee on Finance.

HB 120, making a supplemental appropriation for board of registration for professional engineers. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this bill appropriates an additional \$43,030 to the Board of Registration for Professional Engineers. If I might just read a sentence to re-emphasize the timing of HB 120, in order to expedite annual reregistration for professional engineers. Our board employs a temporary part-time clerk at this time each year to assist our regular clerk typist. Authorized funds for this purpose are almost exhausted and it will be necessary to dispense with her services next week unless further funds are necessary. This over expenditure has arisen because of the increased costs for the types of examinations they are using.

Referred to the committee on Finance.

SB 39, requiring the mailing of resident tax bills within 30 days of the receipt of the tax warrant by the tax collector. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to **SB 39**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

requiring the mailing of resident tax bills within 30 days of the receipt of the tax warrant by the tax collector and changing the requirements for motor vehicle registration.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Motor Vehicle Registration. Amend RSA 260:4 (supp) as amended by inserting in line 6 after the word "year" the following (if said resident does not own any property in the town, or, if said resident does own property in the town, he shall show or cause to be shown to the issuing person a tax collector's receipt for the payment of any resident taxes for which he is liable for the preceding year,) so that said section as amended shall read as follows:

260:4 Payment of Resident Tax Required. No person shall obtain a permit to register a motor vehicle, or register a motor vehicle, or obtain a license to operate a motor vehicle, without first showing or causing to be shown to the issuing person a tax collector's receipt for the payment of any resident taxes for which he is liable for the preceding or current year if said resident does not own any property in the town, or, if said resident does own property in the town, he shall show or cause to be shown to the issuing person a tax collector's receipt for the payment of any resident taxes for which he is liable for the preceding year, or without first executing an affidavit under the pains and penalties of perjury, that he has paid all resident taxes for the preceding or current year for which he is liable or been lawfully relieved from such payment by reason of exemption or abatement; provided, however, that a permit or registration or license, as the case may be, may be issued if the selectmen or assessors shall certify that in their opinion the applicant should be granted such permit, registration or license even though such taxes have not been paid.

3 Affidavit. Amend RSA 260:5 (supp) as amended by insert-

ing in line 5 after the word "year" the following (if said resident does not own any property in the town, or, if said resident does own property in the town, he shall show or cause to be shown to the issuing person a tax collector's receipt for the payment of any resident taxes for which he is liable for the preceding year,) so that said section as amended shall read as follows:

260:5 Affidavit Required. No official or other person shall issue a permit to register a motor vehicle, or registration for a motor vehicle, or license to operate a motor vehicle, without first requiring the applicant or his agent to show a tax collector's receipt for the payment of any resident taxes for which the applicant is liable for the preceding or current year if said resident does not own any property in the town, or, if said resident does own property in the town, he shall show or cause to be shown to the issuing person a tax collector's receipt for the payment of any resident taxes for which he is liable for the preceding year, unless said official or person has in his possession records indicating such taxes have been paid, or without first requiring the applicant to make an affidavit under the pains and penalties of perjury that all resident taxes for which he is liable for the preceding or current year have been paid. Any person who shall violate the provisions of this section shall be guilty of a violation.

4 Effective Date. This act shall take effect April 1, 1977.

Sen. POULSEN: Mr. President, the amendment is printed in the calendar. What the amendment tries to do is make it easier for most people who pay their tax once a year, they go to the town building and pay their taxes near to December 1st as they can, at which time most people pay their property tax bill and the residents tax bill. Under the law now, where you have to register your car at various times of the year depending on your birthday, the law says you have to show the current years' residents tax receipt. For instance in July if you went to register your car you might or might not have your residents tax bill, it only comes out as a warrant in June, but in any case you'd have to pay it before you can register your car. Under this amendment if you were a property owner in the town they would presume that you wouldn't have to do that. You could register your car on the strength of last years receipted residents tax so you wouldn't have to make any extra payment during the year to register your car. If, however, you are not a

land owner in the town you would, to prevent the towns getting licked on a fellow that came in and went out again. This way the towns wouldn't lose any money because those in town certainly their tax bill is a lead and the others are made to pay at that time. The amendment is only to make life easier for people.

Amendment adopted. Ordered to a third reading.

HB 18, to require the operator of a motor vehicle to report an injury to a dog struck by his vehicle. Majority report—Inexpedient to legislate. Minority report—Ought to pass. Senator Fennelly for the majority. Senator Gardner for the minority.

Senator Gardner moved to substitute the words "ought to pass" for the words "inexpedient to legislate."

Sen. GARDNER: It would seem that dog days are starting early this year. I wish to substitute for the words "inexpedient to legislate", "ought to pass." This crosses out all of the originals and substitutes the operator must, of any motor vehicle, who knowingly strikes a dog shall report the incident to the dogs owner, custodian or police officer and whoever fails to comply with the law, it will be called a violation. Now that is all that is included in this bill. I can't conceive of anyone who hits a dog, whether it is his fault or not, who wouldn't stop to find out how much damage had been done either to the animal or to the car. If his car is damaged, and he can prove the accident was the dogs fault there is a law on the books that makes the owner of the dog responsible for the cost of the damage regardless of whose fault it is, it is the only human thing to do to try and locate the owner. A dog has many excellent qualities similar to those of humans. In some homes he is a substitute for children one desired but never could have. He serves as a playmate to children one has. A dog has many attributes that a human has. He is a policeman in our homes, warning us of intruders thereby saving the loss of property, sometimes lives. He is a fireman as he warns us of danger and also been responsible to saving lives sometimes at the expense of his own. Like a lifeguard he has been known to drag a child from the water who was out over his head. He is a comfort in times of sorrow and gives affection to those

that treat him well. He is faithful to those who even underfeed, mistreat, and abuse him. Lets reciprocate and pass this bill so that we can return to the owner the notice so that he can receive treatment if he is suffering and if he does not survive at least the owner will know where he is and what has happened to him. By so doing, you have performed a boyscout deed and you have saved many tears and heartaches by relieving the uncertainty and sorrow that has been experienced by the loss of one's pet. I firmly believe a dog is a man's best friend. Let's show them that we care too. I urge you to substitute the minority report "ought to pass" for the report of the majority "inexpedient to legislate."

Sen. ROCK: Under 262a:5 Senator, it states that the operator of any motor vehicle who knowingly strikes a dog shall forthwith report the incident to the dogs owner or custodian or police officer and whoever fails to comply with the requirements shall be guilty of a violation. Could I pose a situation for you Senator that my wife might be driving my car on the turnpike in Nashua late at night and as dogs will often do on the turnpikes run across become frightened and she strikes the dog, what is her obligation at 11:00 at night on the turnpike to comply with section 262a:5?

Sen. GARDNER: As soon as it is humanly possible to report the accident as stated in the amendment. I think you have to use reason.

Sen. ROCK: If this happened on a Saturday night and she didn't want to get out of the car to examine the dog or was afraid on the turnpike to stop the car, she could then do that Sunday or Monday?

Sen. GARDNER: I suppose that could occur.

Sen. ROCK: I think you have answered my question Senator, she wouldn't have to seek out the owner or the custodian but the next day or some reasonable time she could report it to the police saying I think I hit a dog.

Sen. GARDNER: You might ask my other sponsor who was brave enough to bring in the report with me.

Sen. BERGERON: I am in sympathy with what you are trying to accomplish, however, my problem lies in the violation part of it in enforcement of the statute. Wouldn't it be a fair assumption to assume the only person that this statute might refer to is if I'm going down the pike and I hit this dog and there was someone behind me that reported me. Other-

wise in that, I'm looking for some help, I wonder who this is. . .

Sen. GARDNER: Wouldn't you get out and find out if you had hurt the dog?

Sen. BERGERON: It's possible but. . . What happens in the situation where I don't run over the dog but in most instances you may graze them but the dog runs off.

Sen. GARDNER: Well, then you haven't done any damage and you couldn't find him anyway.

Sen. BERGERON: In this particular instance am I not obligated to report this? That's the first part of my question the second part am I apt to?

Sen. GARDNER: I think you would be apt to, knowing you, but I'm not sure about the obligation maybe you can refer your question to Senator Poulsen.

Sen. POULSEN: Senator, isn't it true that testimony at the hearing it was if there had been an accident with the dog late at night and there was no houses no nothing around that it was perfectly alright to phone your local police in the morning that if you hit the dog you thought in Meredith and that would be it?

Sen. GARDNER: Yes. The only thing is your supposed to report it within a reasonable amount of time.

Sen. POULSEN: Didn't they say that the next day would be reasonable if it was a night time accident?

Sen. GARDNER: Yes.

Sen. POULSEN: I arise in support Mr. President of Senator Gardner's motion. The bill as its amended is very mild. I don't think it imposes much of a restriction on it. You don't have to stop on I-93 with 100 cars after you and do anything about it. The bill is designed to help dogs that are hit particularly on secondary roads in small towns and things like that. But I don't think it's that hard to do and I think they have taken care of the other situations nicely by allowing it to be done the next day. If an accident happened at night, certainly no one would expect you to go rounding out a chief of police at 2:00 a.m., probably get hit in the eye if you did.

Sen. ROCK: Mr. President, I find some difficulty in supporting the present motion, not that I'm not in sympathy with what we should be doing in striking an animal, any animal. I personally don't have a dog or a cat for some very obvious reasons but those that do I'm certainly pleased that they are happy with them especially when they are in their yards and

not mine. What you haven't done here I believe in this bill is specifically spell out the time element available to the person who strikes the animal and I see here a possibility of interpretation on the local level that might give me some consternation, especially where reasonable can be interpreted many ways. If it happens to be the price greyhound of the squire down the road and you strike him and didn't notify the police chief, who is his brother-in-law, within 20 minutes, you haven't done it in a reasonable amount of time. If it happens to be the old mut that belongs to the fellow three blocks behind the railroad track for four or five days it wouldn't make a great deal of difference. I think also here we haven't done anything to show our compassion for those people who have cats and they get hit on the road, and we haven't done anything to notify their owners that we might have had that accident. Perhaps the best thing might be for the bill to be recommitted and worked on a little more before we vote on something that may come back to haunt us.

Sen. BOSSIE: I rise in favor of this bill and I certainly would like to commend Senator Gardner and Senator Poulsen for doing such a fine job on the floor with such a fine bill. Actually, I have been accused of having no heart as a result of my hurting the deadbeat bill yesterday. Now this is a bill with heart. As you recall two years ago we had a bill in here, a similar sort of bill, that included all domesticated animals. Senator Lamontagne asked me if it covered his pet rat. That probably would have covered his pet rat. This one doesn't, it just applies to dogs. Speaking in a serious'vain, a number of years ago I had a dog who was let out by the neighborhood children and who was struck by an automobile. What happened is that it was a St. Bernard dog which was bigger than the car that hit him, but the person did stop he did call a friend of mine who was the dog officer in the city of Manchester and they did get the dog to the veterinarian in time, although the dog eventually died. I thought it was very nice that the gentleman, even though he didn't have to do it, and I really legally was obligated to him to pay for the damage to his car which was substantial. The fact remains that this is a bill with heart and I think notwithstanding the matter of what time you can do it, I think it's reasonable time and I think the intent would be by saying this before this Senate it should be a *reasonable* time. Of course if it's a woman who hit a dog in the middle of the night and there is nobody around and it's in some small town up north

where it's difficult to find a police officer or telephone, it would be very difficult to do. But if you're right in the city of Nashua it would be easy to call the local police. It doesn't mean your liable for the dog, obviously a dog gets in the road you don't know the dog or the owner even though it's a pet greyhound. I think it's a good bill and I ask you to pass it.

Sen. BLAISDELL: I just want to let the Senate know that you are eloquent in front of your people Senator Poulsen you gave me a lesson in the past six years that's for sure. What if the man goes through New Hampshire on his way to Boston and hits a dog, does he call from Boston and tell the people in the town that he struck a dog?

Sen. POULSEN: I would presume actually that it did, Senator. I would presume from the testimony that they gave, and the head of the Humane Society was probably the chief testifier, and that question we did use another state but it could easily apply that when he got back to his home base and not even necessarily late at night the next morning if he notified the police, his presumption was the police would work through their channels to notify the police in the appropriate town of the accident.

Sen. McLAUGHLIN: What you are saying here today, your saying that in your committee was testified a reasonable time and I agree that it probably was. The question is how would some police officers understand that and use their judgment. I realize it was hell in committee when they said that it would be better if it was spelled out in here to clarify for the people that his judgement of 10 minutes or 24 hours, I think that's a big difference.

Sen. POULSEN: I suppose there is a certain problem there, I would think myself that it would have to do with the time of day if it was high noon, then it would be expected to be reported then; but if it was midnight it might be another story. We thought it was satisfactory the way it was.

Sen. POULSEN: Senator, while a man who hits the dog who does a certain amount of liability could be assessed for killing an animal which his insurance would pay, isn't he also protected in some ways legally by the reporting of an accident? For instance wouldn't a large dog such as a St. Bernard cause several hundred dollars of damage to an automobile?

Sen. BOSSIE: Yes. There is no liability in New Hampshire for striking any animal. For instance, I had a case once in

which the oldest horse in New Hampshire jumped a fence and struck a car which was owned by my client so I brought a law suit against the owner of the horse and they said well the horse had a right to be on the street and I said well he might be the oldest horse in the world but he had no right gallivanting down 93 towards my clients car. I did win the case I think for \$600. Normally, there is no liability on the owner, on the part of anyone who hits a dog or any animal if they're there in the street. In fact as in that case the fellow wanted his car repaired, I as owner of the dog have a responsibility to him.

Sen. POULSEN: In that sense do you get protection having reported the accident if he had a claim for damages?

Sen. BOSSIE: I think going beyond the legalities. I think it's just a question of decency. I think decent people whether this passed or not, if I struck an animal I would report it. It's very interesting this bill comes up and I'm just thinking about it. In my life I've run over two dogs and they both happened when I was a senior in high school, 1959, and they both were within one week believe it or not. And what happened is that I was coming down the street the dog ran out into the road and I just couldn't stop and so I ran over him and he died and I did notify the local policeman. But when I struck the second one I don't know if he believed me if I was trying to run over every dog in town. The fact remains I still did report it. I just felt bad. I feel there is nothing wrong with anyone reporting these things. It's just to notify the authorities in case the dog could be saved.

Senator Lamontagne moved to indefinitely postpone.

Sen. LAMONTAGNE: Mr. President, members of the Senate I had expected just to vote on this matter but personally I was at the hearing too. Personally I feel that this would certainly create problems for motorists. Especially, motorists who are driving on interstates and, at the same time, people who are traveling in the areas where there is possibly a 40 or 50 miles before they could reach a police station to make it's report. Regardless, as it's been said that a reasonable time can be used, but in the meantime the injured dog happens to stay where ever the dog has been hit. It's possible that it could be a hound dog, a hunters dog who has been lost in the woods and possibly got on to an interstate or especially from out in one of the woods roads up in the northern part of New Hamp-

shire where a cop is probably 50 miles away, at the same time this injured animal that's there and therefore no one would dare to even pick up the injured dog because the injured dog could easily turn around and give the individual trouble and take a great big hunk out of the individual who tries to pick him up. Now dogs are known to do that. Now at the same time I personally feel that again if the matter is reported to the police officer, and if the police officer is from another township that officer is not going to go see if the animal is fit to be returned to the vets. But let me tell you something that did happen in the hearing. At the hearing there was some vets who appeared in favor of this bill. And I asked the question of a vet, and I said if this dog had been hit by a motorist and was reported to the police station, then wouldn't it give you the evidence of who owns the dog and who hit the dog, and therefore you'd be able to collect from the person who hit the dog. And he said yes. This would be one way that we would be reimbursed for some of the injuries that we have been taking care of and not being paid for. This was the word of a vet during our hearing. If this bill is to benefit the vets, then I personally think that this is only another gimic for the vets to be able to collect for insurance. Now if you take for instance like now if you hit a deer, the deer law is completely different. The deer law says if you hit a deer you must report to a conservation officer. Now immediately when the conservation officer gets it he is supposed to go and pick up the deer; but there is nothing in this law that says that the dog must be picked up. This is something for you to think about. Again I think this is wrong to place this into the hands of the motorist that they must report, especially report it to another township when the injured dog is not going to be taken care of.

Sen. GARDNER: I'd like to ask the Senator from the first district that if it also didn't come out in the hearing by other persons representing vets they would give first aid treatment regardless if they got paid or not?

Sen. LAMONTAGNE: That was entered into the records, I would agree Senator; but at the same time there were some doctors who said that this would give them a way of being able to collect.

Senator Provost moved the previous question.

Adopted.

Senator Rock moved to recommit HB 18 to the committee on transportation.

Sen. GARDNER: I would like to say that I have no objections to having it sent back to the committee but I think this is only a gimmick to get it back on the floor and maybe make some more foolish statements about it when it comes back on, not on Senator Rock's part but on some of the other Senators.

Motion failed.

Motion to indefinitely postpone.

Senator Gardner requested a roll call. Seconded by Senator Bossie.

The following senators voted yea: Lamontagne, Bergeron, Trowbridge, Sanborn, Provost, Fennelly.

The following senators voted nay: Poulsen, Gardner, Bradley, Monier, Blaisdell, Rock, McLaughlin, Keeney, Hancock, Healy, Brown, Bossie, Downing, Preston, and Foley.

6 yeas 15 nays

Motion failed.

Motion to substitute "ought to pass." Adopted.
Ordered to a third reading.

Senator Fennelly moved to suspend the rules of the Senate so far as to allow the introduction of a resolution without referral to committee, the holding of a hearing and notice of report.

Adopted.

Senator Fennelly moved the following resolution.

RESOLUTION

WHEREAS the University of New Hampshire's 1976-77

hockey team is another in a succession of outstanding hockey teams representing our State University, and,

WHEREAS throughout this year that hockey team consistently ranked among the top hockey teams in the nation, and,

WHEREAS the University's hockey team made it into the finals of the ECAC Division I playoffs and by virtue of their outstanding performance in that series was selected as one of the two teams in the East to meet in National championship competition with the two best teams in the West, and,

WHEREAS the University's hockey team will be traveling into these championships bringing positive recognition to and further enhancing the good reputation of the State of New Hampshire,

THEREFORE be it resolved that we the Senate of the State of New Hampshire do hereby pay tribute to the University and its hockey team and wish that team good luck and Godspeed on its forthcoming venture into NCAA championship competition.

Adopted.

HB 86, relative to outdoor advertising control along state highways. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: This bill basically is a housekeeping bill requested by the Highway Department to just go on and keep for a period of two years what's already on the books pertaining to outdoor advertising within the State.

Sen. TROWBRIDGE: I'd just like to speak in favor of the bill. Way back in '69 we first had to put on a moratorium on building billboards on the secondary roads. This is not the interstate. This applies to the secondary roads alone for which there is no federal program, which there should be a federal program but there isn't. So that we have simply said that rather than being able to regulate the billboards that are up on secondary roads they can stay up; but the moratorium you're continuing here is that no more go up in case they become to the point there is regulation of the secondary highways and you have to take that and pay for them. So that's all this is.

Sen. BRADLEY: Am I correct that it is now illegal to have such signs on the primary highways such as the highway going south? Interstate?

Sen. TROWBRIDGE: Oh, sure. That was provided by federal law.

Sen. BRADLEY: How is it that the State of New Hampshire gets to advertise sale in progress at the liquor stores at the interchange?

Sen. TROWBRIDGE: There is an exemption in the Interstate Highway Act of 1965 which says the state can put up any signs that it so chooses such as turning off at Black Rock Road or anything else or sale in progress and you will note there have been some fairly definitive signs such as Rockingham Park and various other things.

Adopted. Ordered to a third reading.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE First and Second Reading and Referral

HB 369, an act extending certain capital appropriations. To Capital Budgets.

Senator Sanborn moved to suspend the rules of the Senate so far as to allow a hearing on HB 369 without the required notice in the journal.

Sen. SANBORN: I do this Mr. President on the following basis. This bill is an urgent bill relative to the Veterans Home in Tilton and if it is not passed through the legislative bodies by April 1, we stand to lose some federal money and if I hold a hearing on this bill say Tuesday afternoon at 1:00 and hopefully, the clerk will see that the newspapers are so notified so there be a public hearing at 1:00 Tuesday afternoon. By then we can advertise properly in the journal to have it come before us on the Thursday afternoon session.

Sen. BERGERON: Senator, would you give us the benefit of exactly what these three items cover?

Sen. SANBORN: I can't at this time, Senator, not having seen the bill too much myself and that is why I do understand though from a common map that it is important that this be done otherwise we lose the federal funds.

Sen. BERGERON: I think specifically my question is in regards to the Department of Safety, I think what I want to know here is, does this bill in any way affect the Troop A station?

Sen. SANBORN: To my knowledge it does not have anything on the Troop A station in HB 525. Seeing that I am the co-sponsor of 525 I'm fairly well assured of that. I can't seem to find 369 here in my book.

Sen. BERGERON: Senator, would you believe that if I could get an assurance from you that there is nothing in this bill that pertains to Troop A? and are you willing to give me that assurance?

Sen. SANBORN: I'm willing to give you my assurance that there is nothing here to do with the Troop A station.

Sen. LAMONTAGNE: Senator, I was wondering if you could tell us whether or not there is anything in this bill or is it in another bill where there is money needed to take care of the substations for the motor vehicle department?

Sen. SANBORN: To my knowledge right now there is nothing to do with the substations of the Department of Safety. This is basically so because it is in three parts, Senator. One of the reasons is that I want to insure we have a public hearing on this bill. If we hold a public hearing at the regular time, it couldn't be before Wednesday, and then the regular time to advertise it's coming in on the Senate floor would be the following Tuesday which takes us into the 19th of March and we are on vacation. I'm just trying to advance the time I can have the public hearing on it.

Sen. LAMONTAGNE: Senator, what has happened to the emergency bill, that the House suspended the rules on, that was sent appropriations to take care of the substations that are subject to be closed? If an individual is going to be sick, there will be no one to maintain it. Now there is supposed to be a request for additional funds for the Motor Vehicle Licensing Department. What has happened to that?

Sen. SANBORN: Senator, you have the same information that I have. I only thing that I know of is that it went to the House Appropriations Committee and I have not heard from it myself since that time. Perhaps Senator Trowbridge, from Senate Finance, may have some other information on it; but I have not.

Sen. LAMONTAGNE: Senator, is there any way that this bill can be amended to be able to take care of the emergency

that is needed by the Motor Vehicle Department? The reason why I'm asking this question is because the substation in Berlin is possibly going to be closed because of lack of funds during the time a person is sick, and he will not have anyone in the office.

Sen. TROWBRIDGE: Well, any thing can be done, but I heard, as you did, that the House was rushing through the bill for that purpose, and this bill pertains to the Veterans Home, that is a Capital Budget item and that's why Senator Sanborn, being head of the Capital Budget part of the Finance Division is in charge, and doing just what I think he should be doing. That's a separate issue entirely and if by next week we don't have the vehicle in on that we will make arrangements to get a suspension of the rules to do what we can.

Adopted.

Senator Lamontagne spoke under Rule No. 44.

Sen. LAMONTAGNE: Mr. President and members of the Senate, what I'm going to say today and what ever I'm going to do I'm going to ask St. Patrick to forgive me. The first thing I'd like to bring up to you is because a matter has been brought up by Senator Downing in reference to TEPCO a matter that's pending in court for the city of Berlin and that's between the city of Berlin and Mr. Harris and TEPCO International Generation Inc. I'm very dissappointed with the Attorney General for the Attorney General responding to a request from a Senator and that is Senator Downing a report of a request that had been made by the whole Senate. Personally I think that the Attorney General has been wrong in answering to any Senators, that the matter should have been referred to the President of the Senate. At the same time I charge the Attorney General for not doing his job in a good and fair manner. I have checked with other Senators that were involved with me at the time that the resolution was introduced that Mr. Harris either become a lobbyist a registered lobbyist or that he would be arrested for lobbying. Now us three Senators I'm sure have seen the evidence that Mr. Harris was lobbying beyond his duty as being hired by the majority of the council of the city of Berlin by a vote of 6-5. Now I feel bad that this happened again; because last summer the ways and means committee chairman asked for a meeting with the Attorney General when

there was another matter pending in court and answered to a committee of the Ways and Means in the presence of the chairman, Mr. Downing, Senator Fennelly and myself. I don't feel that the Attorney General had the right to discuss any matter that's pending before court and I'm referring to those who have been hired through the Liquor Commission for wrong doings at the time in these liquor stores. Now this is another case pending before the court and I would not have had any objections if the report had been made to this Senate; because it was a Senate resolution. But I'd like to refer again to Senator Downing receiving some false information. We have some false information and false information came from attorney Earl Gage of Berlin New Hampshire who is the clerk of the incorporation of International Generation Inc. In the letter of March 14 sent to Senator Downing there's a bill that says that John Harris had 86 hours of service at \$65 per hour, \$5,590, expenses for travel, secretarial and meals \$450.25 a total statement of \$6,040.25. This is very interesting. Expenses due for the attorney general's investigation of 1975 to 76 salaries \$2,325.00 registration as a lobbyist \$25.00, secretarial and office expenses \$656.25, special meeting with the corporation \$225. transportation \$637.50, motel \$270.65, meal \$163.75, miscellaneous costs of reproduction \$73 well anyway it goes down to another \$5,000. At the same time it mentions in here that there was a telephone call of \$276.25 and another telephone call \$89.50. No wonder IG & T or TEPCO Inc. has not got a telephone anymore in their office because there is verdict from New England Tel & Tel in Coos county for an amount of \$7,081.31 but listen to this one the same phony stuff happened in New Jersey because John Harris went to New Jersey and when he went to New Jersey there is another charge of another \$4,200 of telephone bills to New Jersey Bell. So no wonder the IG & T has no phone because they can't get a phone because they haven't paid their bills. There are many other bills. Let me inform this Senate if you are not aware that Mr. Harris came from Maine and he is still from Maine. His address is here on the incorporation papers has been filed in '75 and in '75 it shows zero zero you have a complete chart of '75 and you got the '76 figures and these figures show net worth zero zero zero zero, now how in the heck can John Harris or the Incorporation to be known which I claim is phony, both TEPCO is phony IG & T is a phony corporation that the city got involved with. In 1969 and John

Harris just to give you an idea of how smart he is in convincing people that he convinced Mayor Gage and some of the administration that he got an appropriation of \$25,000 from the city to investigate his own company which is to be phoney and you know what the city got for \$25,000? This is what we got for \$25,000 to investigate a report that we knew before it was ever made that he was going to make a favorable report. The city of Berlin under this phony corporation of TEPCO Inc. of New Hampshire and International Generation Inc. they changed their name and fooled a lot of people especially fooled the people of New Jersey. The city right now has spent \$34,260.46. Therefore, I had and you have a copy of Arthur Bergeron who happens to be the chairman of the Mayors Advisory Committee and you have a copy of the recommendations made to take this matter to superior court which was adopted by the city council at a 7-2 vote in favor of sending it to the court to bring this to a head. I have submitted to you a lot of garbage that you've got on your desk of all of TEPCO and I've also given you the same for International Generation Inc. Yes, it's garbage just like the garbage you got yesterday. And the garbage you got yesterday was nothing to be hidden in any way because what has been produced by Senator Downing yesterday that the matter has already been produced and a copy given including the letter that's been sent to President Jacobson and a copy sent to the Minority leaders, Senator Downing. Those have already been reproduced and they've come into the council had a copy and the members of the local press and including the Manchester Union Leader got a copy in Berlin. So that was nothing to be ashamed of because I appreciate if you would read that garbage and therefore you'll know what the city of Berlin is facing as far as having a phony outfit that has a phony contract with the city that must be proven in court that it was wrong doing because the contract has no date of saying when the construction is going to start. The contract doesn't even tell you when the construction is going to be completed. Therefore the contract is open on both ends and that's why it's necessary for a matter to go to court. The city has been facing this matter ever since 1969. And this matter has been going on ever since '69 here in this senate and I'm hoping to God that when we go to court in October that will be the end of the phony operation. This is really a phony operation and as far as I'm concerned Mr. Harris has registered as a lobbyist and you

will find in that package you've got a letter from the Secretary of State and Mr. Harris had been ignoring the law of this state he's been ignoring it and has not filed his report; because if he had filed his report, he would show the expenditures of the \$6,000 that he claimed has been spent for legal fees for what I have caused him to as a Senator. One more thing, my city and it's recorded into the Secretary of State's office and you have a copy, Mr. Harris has filed with the Secretary of State that his corporation has spent six million dollars well how could it be six million dollars when the financial report shows zero, zero, zero's in net worth? Ever since 1969 the first report came in '70 the financial report showed zero, zero, zero 200 shares of stock, 50 shares of stock sold to TEPCO of Maine themselves for \$1,000. Well, as far as I'm concerned the arithmetic and what you got for a ballance 000 so now therefore my city is facing a serious problem and I feel real bad that this matter had to be reopened again in this senate because I had no intention of even talking or speaking about TEPCO again, especially on this Senate floor. I have also and you have also received some copies and this incorporation has wasted hours and hours of our state department heads. I have letters here from Bill Hanny and this dates back from 8/12/75 but you can check with any of these departments and you will find even up until today that International INC., or even TEPCO of New Hampshire or TEPCO of Maine have never, never applied for a permit to put this plant that they talked about which is a dream. Let me tell you about dreams that this man has. He is the only man that I know of that can make water go uphill. Honest and truly. This man claims he can make water go up hill. This goes to show you how silly the whole thing is. Well I've wasted enough time of your's today as far as TEPCO but now Mr. Chairman I want to continue under rule 44, I have another matter that I feel real bad and I feel bad that this is the day I have to use on St. Patricks day, to really express my feelings. I honestly feel bad is what happened yesterday on **SB 47**. **SB 47** yesterday I was not aware and as you know that I had a decision that I had to make because there were 11 Senators on one side and 11 on the other, and therefore I was sitting on the seat that I had to make a decision. Well, I thought that I had made the right decision because I figured I had 12 votes in order to pass **SB 47**, but I found out after that I had lost because a member had made a change which the person had the full right of making the change but the idea is

that I voted the way I did is because I felt I had the votes to pass. Well, I feel that I have hurt a man that I consider of being honest and considering that the man which was discovered today of additional information and I couldn't find anyone to move to reconsider on the proper hour; but I have a statement from Mr. Osborne in saying that he did not receive one dime from anyone during the time of his that he had been layed off as head of the Motor Vehicle Department and he did not work as being accused of working at the time, he did not have a job. He did not get paid in any way and I honestly feel this way and if I didn't I wouldn't say so. But I feel the man has been treated unjustly. Because he is an honest man that has been proven by the Personnel Commission proven that he did no wrong and at the same time the attorney who took real pity of Mr. Osborne who has sickness in his family and let me tell you the attorney was willing to accept the amount that it's in the bill that I put in Yes he was willing to accept the amount of what I put in the bill and I'll swear to God that I did not put in that bill in any way for any favors or any political pressure, I put in that bill because I've known Osborne for 23 years nothing else but good service nothing else but for him to treat people the way they should be treated as a public servant, he has treated them very, very good no one could ever complain about him. With the exception I heard one member who said that the man didn't do his work. Well I've been here for 23 years and I've never seen him refuse anybody and I've never seen him refuse doing any type of work, because I worked with him, been on transportation for the last 23 years I've worked with Clayton Osborne, I've worked with Fred Clarke, I've worked with Ken Smith and I've even worked with Fred Clarke Senior and I've worked along with Commissioner Flynn. So therefore again I want the Senate to know that right today Clayton Osborne has sworn a statement that he did not work and did not receive any compensation in any way while he was laid off from his job. I want to thank you for the time I've taken today.

Sen. PRESTON: Senator, with all due respect to your district and you are the Mayor of the city of Berlin, you said you regret that this issue was brought to the floor of the Senate that Berlin is in court and that it's Berlins business. Senator would you believe that two years ago when we discussed your recommendation as to an investigation that it was I who said the very same thing is this the body to wear out a local issue

should we use the Senate Chamber to look into this?

Sen. LAMONTAGNE: Yes Senator, I still feel today that it was the right thing to do because Mr. Harris at that time was lobbying and therefore was lobbying in the State House and it certainly is the business of this Senate, although Senator there is one correction that I want to apologize for. I believe in honesty and fairness, I was wrong in John C. Harris, the son, because John C. Harris was not the man that I thought it was and I used the wrong name and therefore apologize before this Senate that it was not John C. Harris it was another and I have not got his name. But John Harris was the one.

Senator Monier moved reconsideration of HB 152.

Sen. DOWNING: Senator is it your intention if it's reconsidered and back on second reading that you will offer the amendment now?

Sen. MONIER: I'd certainly move because all it does is change the date from '77 to '78, I'm sorry from '78 to '79.

Adopted.

HB 152, relative to personal property inventory forms. Ought to pass with amendment.

Amendment to HB 152

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Effective Date. This act shall take effect April 1, 1979.

Sen. MONIER: As I said, I will keep this very brief then I will defer to Senator Rock, but this amendment change does one thing it changes it from April 1, 1978 to 1979. I did poll the Committee of Executive Departments and no one was in any real disagreement with this. At this point I'd like to yield to Senator Rock.

Sen. ROCK: I had the amendment prepared for two reasons. First I felt that we are making a drastic change that effects every property owner in every city and town in this state in the filing of these forms. I think a great deal of educational work is going to have to be done to acquaint our citizens

with what we are trying to accomplish with the passage of this bill. I also feel that educational work can begin immediately because the sense of the bill and the passage of it at this time will allow not only the town clerks the city assessors to begin their efforts in this direction but would allow the media time to explain what is happening. I would also note that we would have to admit that for all intensive purposes 1977 and the application of this form has gone by and to change it to 1978, moving it up, I think that brief periods would not be sufficient. I would ask that as you vote on this you consider the difficulties we have had with the passage of the \$3.00 on the homeowners and what kind of problems you have had because the public generally was not aware of it, didn't know about it and felt it happened too fast and took them by surprise. So I'm willing to abide by the wisdom of the Senate and the House in imposing the penalty, but I think that when you realize that I have four or five forms that I have to file all surrounding one piece of property and the land and building they're on and I file only three I could be subject to a \$50 fine and I think that time allowed by my amendment would give the people of the state of New Hampshire a chance to understand what your doing with this bill and I hope you would adopt this amendment.

Amendment adopted.

Sen. TROWBRIDGE: I still intend to vote no as it comes through the amendment is better, I voted for the amendment. I'm going to vote no. I think there are a lot of illerate people who are going to be accused of making out forms that are incomplete. I know a lot of the people in my town will be unable no matter what the publicity to satisfactorily make out forms if somebody wants to get on their back. I think this is an imposition and unnecessary.

Sen. FOLEY: Mr. President, I too am still going to vote against this bill. It's been the practice in my city that if you had no changes in your land and building if you didn't have any livestock, if you didn't have any farm equipment that if you didn't put it in, it was perfectly all right and this has been going on for many years and people just naturally they haven't changed if they haven't had any construction, if they haven't sold any land they've just automatically not put it in and nobody has ever said a word. This suddenly will have them all

fined and I just couldn't think of voting for the bill.

Sen. KEENEY: I'm speaking in favor of the bill although I would have preferred to see it going into effect even this year if possible. Perhaps there is a difference of opinion among those of us who are living in towns and those of us living in cities but in a town which attempts to use this information to the greatest extent possible it is very difficult to get all the inventories back and I can state in that past years the town of Hudson probably gave secretarial time for at least two months in calling residents and asking for them to return the inventory and/or to fill out more completely. You probably recall that when you do fill out an inventory there is a receipt attached and when you return it if the office accepts it and gives you back the receipt I would assume that would be your indication that it was complete and that other difficulties could only arise before your inventory was accepted and you would know at that time that it was incomplete.

Sen. BERGERON: Senator, you just brought up something that I don't know that I had considered too extensively on the original passing of the bill. You mentioned these people that cannot fill out the form that now may be subject to interpretation of someone that may be fined, I'd like to hear a little more about that.

Sen. TROWBRIDGE: Senator Foley said it very well. Some people know and just go along saying I haven't changed and therefore I don't have to file the inventory. There will be ignorance of this law, widespread, no matter how long we give; but more than that if you have looked at the inventory lately, it has a lot on it and there are a great many people who I know who are buffaloeed by that. It isn't easy it says have you got any railroad stock, it's not a good form. It never has been it's not very informative. If you want to get the census information you can get census information by sending someone a card saying, how many people live in your house, please return. And you'd get it in a minute; but no you get this tax form at the very bottom of it it has how many people live in your house. I'll bet you dollars for dollars you could have five years of information going around and you'd have half the people filling it out wrong even if they did send it in and they would all be technically liable to a fine. And I don't think that's the way to do it. If we want to get statistical information for the State of New Hampshire there has got to be a way to do it without fining someone. And that's what I think this bill

is about. I think it's the wrong way to do it.

Sen. BERGERON: Is there any penalty on the form as it stands today?

Sen. TROWBRIDGE: No.

Sen. HEALY: I'd like to say this Senator Trowbridge, I come from the city, a large city, and every year we have to fill out these forms if you own property as long as you own any kind of property whatsoever you get this long detailed form. It's costly to the city, because the city of Manchester has to hire a lot of people to sit in the basement of city hall to help these people to fill out the form. The people that are mill workers they are not that sophisticated to come in and fill out the form and say how many dogs you own and do you own even a monkey. It may sound ridiculous if you own a monkey or not, but we do have monkeys in Manchester and they are real live monkeys and even on St. Patricks day if your not careful you might get bitten by a monkey. To me I don't know the value of this form at all, I've never been able to evaluate it, it's just a matter of tradition to fill out a form, an inventory form that means nothing just piling up in the corner. I don't know if they destroy them or burn them or what; but they are a waste of time, a waste of energy, they are a waste of just about anything that they are supposed to intend to be. Now they mentioned something about if you want to know the value of a house and so forth. We have a Board of Assessors, I'm sure they have clerks and assessors in their towns to tell you the value of a home 10 years before or 10 years later on. To me it's a very ridiculous thing when you have these people paying taxes in the city of Manchester, our rate is going to go up at least \$4.00 more which is an insult to the people of Manchester because of the way things are going and everyone seems to need money because almost half of the bills coming through the Senate here are all calling for extra money. Everything is money today. If we talked a little more common sense and a lot less propaganda about this I think we would be better off; but I'm new in the Senate I'm learning I think a little bit about the law. And I'm hearing a lot of balogna as I go along; but getting the city of Manchester where we have a big population and every so often your getting a request for this and a request for that, you have to have this residence tax to even get your auto registered and all that. I can understand that. That may be good legislation. But this particular inventory form is a lot of detail going on to three or

four pages and the average person, even an intelligent person, has problems trying to fill them out because they ask you so many questions you have to go to your vault to find out the status of your property. There is only one thing on that form that's any good and that's whether or not you are a veteran. You can get that exemption. So I agree 100% with Senator Trowbridge on this. I think I'll vote for the bill; but I see no value in it.

Sen. POULSEN: Your in objection to part of the form which has valuation is being eliminated by this bill?

Sen. HEALY: It repeals the part on valuation. Why do they ask you the question of valuation?

Sen. POULSEN: That is on the form. This bill is repealing that part of the form Senator.

Sen. HEALY: What else does it repeal?

Sen. POULSEN: It repeals the part that had to do with who slept in your house. How many people sleep in this building? As I explained earlier that was put in by the revenue people when the rooms and meals tax was first in and is no longer needed. So they are eliminating these two things making it that much more simple to fill out.

Sen. HEALY: If that's all it does, then it's a waste of a bill, to me this bill is an impractical solution to the whole thing.

Sen. SANBORN: Senator, does not the question at the bottom of the form, to which I believe Senator Trowbridge referred, relative to the number of people in the household which I believe still remains apply too, it gives them an indication of the number of children that might be going to school and so forth? Is that part of the school census that is required by law every year?

Sen. POULSEN: It's very important, in fact, this body voted it in during my time. I think it was Senator Downing's bill as I recall that added that part to our inventory blank.

Sen. SANBORN: Isn't this form used by selectmen, I believe...but don't they use it at times for the purpose of some of the other forms that are returned to the towns from the state and isn't there parts of that provide them the information so they know how much to apply for relative to Rooms and Meals tax?

Sen. POULSEN: It gives them an up to the minute census which they can't get any other way except for going back to 1970 which has changed considerable in many towns.

Sen. TROWBRIDGE: Senator Poulsen, I understand your

census taking, but it's still attached is it not to the tax form? So it's not just a census taking thing, it is a tax form which people regard as a tax form do they not?

Sen. POULSEN: The only thing I've ever called it was an inventory form.

Sen. TROWBRIDGE: However, the inventory is for purposes of taxation?

Sen. POULSEN: Yes.

Sen. TROWBRIDGE: It is?

Sen. POULSEN: That's optional I suppose. I have to fill one out for each piece of property I own.

Sen. TROWBRIDGE: The reason they sent it out was for tax purposes?

Sen. POULSEN: That's what I would presume.

Sen. TROWBRIDGE: If you were desirous of getting census information could you not get it without a penalty being imposed?

Sen. POULSEN: I would think you could. I would think you could send someone around as the government does every 10 years to knock on doors and count people.

Sen. TROWBRIDGE: Is there an essential difference between this bill and amending the inventory form the fact that this is a penalty and a fairly substantial one for noncompliance with the entire form. Isn't that the issue we are talking about?

Sen. POULSEN: I think it's the jest of the bill. It makes it mandatory this put a penalty on a thing that is already illegal if you don't return it, but the only penalty I know of is that you lose the right of requesting abatement.

Sen. JACOBSON: I'm sorry, I may not have been in on all of the debate here but I do have concern as a selectman in the town of New London and one of the problems I see is the way in which the penalties are to be collected. I think that is a serious problem and the present statute and I may be corrected by the Chairman of the Executive Departments the present statute provides that if you fail to file the form you then are ineligible for an appeal to the Board of Taxation. I would say that's probably a pretty severe penalty with respect to the failure to file. The other problem about being fully made out, the most complicated part for me is not about the dogs and cats or the railroad stock, it is that very first part where it demands a description of the property and I have just filled mine out already and mailed it in saying that it is the same as it was last year. This does raise a question for me whether or not

I have complied with the law and furthermore whether a considerable number of the citizens of the town of New London have complied with the law. The real purpose of the inventory on a perannumbasis after the property has received an original building through a new building permit is to be able to know of any changes in the character and nature of property for one year to another year, and that is the basic reason for the inventory plus any changes that you might have in dogs and cats and railroad stock. At one time railroad stock is now a residual matter but it still continues on the statutes and it might be well to review the statute with respect to that and eliminate that portion of the inventory. I also have a concern with regards to the population profile inventory. Personally I think that is very important for the selectmen to know because of a residents tax. One of the major problems we have is finding out who is where for the residents tax and then suddenly we have an angry citizen who comes forward to get his automobile registration and he is told well you can't have it because you haven't paid your residents tax and he says well I haven't been asked to pay my residents tax so then we have to go through a period of getting the person on the roll to pay the residents tax and if you don't have a car or if you don't fish or you don't hunt it is perfectly possible to escape the residents tax so that I think that inventory is a very important matter. And I'm speaking now as a selectman with somewhat less years experience then our senior Senator from the second district but none the less in my fifth year as a selectman.

Sen. POULSEN: As one selectmen to another, do you agree with me that the questions asked on the inventory form are designed and written by the Department of Taxation and designed to, what was considered, fill the bill, or to fit the circumstances do you agree as under this bill there going to eliminate two parts that are already repealed under this bill that they could very easily change the wording in the first part of the inventory blank which has to do with the definition or description of your own place so that you could use the word, as I do and Senator Trowbridge does, and have the other question be pure yes, no. Don't you think it's a matter of how they write out the form for the printer to print?

Sen. JACOBSON: Senator, you are precisely correct that the Department of Revenue Administration does in fact make out the form and I believe under some statutory authority it does make out the form. As to the exact format I'm sure how

far their authority goes but if you say that they can make it out in any form in order to accomplish the goals of the inventory form then I am willing to accept that.

Sen. SANBORN: Senator, I'm a little bit confused here. We've been listening to assessment blanks, to inventory blanks and so forth and so on, and the one that always came to my house said inventory blank. You as an educator what is the definition of the word inventory?

Sen. JACOBSON: The definition of the word inventory is what you may be in possession of, depending upon the kind of inventory you take.

Sen. TROWBRIDGE: I asked this question of Senator Poulsen, the inventory blank as we use it is for tax purposes is it not?

Sen. JACOBSON: The inventory blank is for the assessors of the town to use for tax purposes. In some towns there is a board of assessors that is distinct from the board of selectman but in most towns the board of selectman is equal to the board of assessors.

Sen. TROWBRIDGE: In your opinion Senator, don't you think that it's more likely the person who gets a tax type form is more wary of that form than he would be of a form which said for purposes of finding out who's in town and what we qualify for rooms and meals tax and would you kindly put down how many people are in your house. Would that not be more readily received by the average person than an inventory form for tax purposes?

Sen. JACOBSON: Well, Senator, I don't hold any particular brief or have the population profiles of the community placed on some other document. My concern is that I think it's important information to have and I understand your point is we ought to have a form which is specifically and especially designed so that the Board of Assessors can evaluate the tax.

Sen. TROWBRIDGE: But would you not think that you would get better compliance if it came on a form that was not connected with tax issues?

Sen. JACOBSON: Are you speaking about the population profile? I certainly agree that there should not be a penalty for that question. In fact I have some trepidation with respect to the penalty that this bill calls for for the failure to file the form. Since there is already an important penalty and that is the loss of right to appeal on the statute books.

Sen. LAMONTAGNE: Senator, can you tell us whether or

not there was any exemption for someone who is away from home at the time this form has been sent?

Sen. JACOBSON: At the present time, the selectman have certain discretionary power with respect to this. The statute is clear, April 15 is the deadline; but selectmen have been known in the past to take into consideration the sudden illness of a resident or some such other matter.

Sen. LAMONTAGNE: When you are talking about other matters assuming that someone leaves in the month of November when the form has not been sent and if it must be returned by the 15th and they are out on vacation in Florida, and coming back on the first part of May.

Sen. JACOBSON: Well, that is a problem that would adhere under the present statute and under this bill that the fact that they are not here and have not received the inventory forms which are mailed usually at the end of March, that would be a problem they would be faced with regardless.

Sen. ROCK: Following up on Senator Lamontagne's question, is it not a fact that they went away now and did not file a form in time because they were on vacation they would merely lose the benefit of either a veterans exemption or the right to file for an abatement. Under the present statute that we are talking about they would also be subject to a fine?

Sen. JACOBSON: Under the present statute they would lose both the right of exemption and the right to appeal. I'm not sure in this statute whether this repeals that so that there would be a third penalty imposed.

Sen. MONIER: There is another aspect to this and that is most small towns and most of the major towns, I cannot speak for the cities, also include in their inventory both your exemption for veterans, exemption for your homestead and I'm trying to remember my own towns, usually the notification of your residents tax, I think, also the new one on the elderly and so that one of the considerations that was brought before the committee that I didn't bring out before was simply that many of the people are apt to lose all of these procedures if they do not fill these in. So surprisingly enough most of them do do it so that means most of them do send in these particular things and maybe this is belaboring a point and at this point Mr. President, I'm the one that asked reconsideration I'd like to move the question.

Motion to order to a third reading.

Senator Monier requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Poulsen, Gardner, Bergeron, Monier, Keeney, Hancock, Sanborn, Brown, Preston.

The following senators voted nay: Lamontagne, Jacobson, Blaisdell, Trowbridge, Rock, McLaughlin, Provost, Downing, Foley.

9 yeas 9 nays

Motion fails.

Senator Monier moved to lay HB 152 on the table.

Senator Rock requested a roll call. Seconded by Sen. Provost.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Jacobson, Monier, Keeney, Hancock, Sanborn, Brown, Downing.

The following senators voted nay: Blaisdell, Trowbridge, Rock, McLaughlin, Provost, Preston, Foley.

11 yeas 7 nays

Adopted.

ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in the name of all the wonderful Irish people and their friends until Tuesday, March 22 at 3:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

SB 33, relative to the duties and responsibilities of the property appraisal division of the department of revenue administration.

SB 82, relative to the director of forest and lands and the director of parks.

HB 5, relative to regulating the licensing of cosmetologists.

HB 90, limiting the availability to foreign partnerships of certain trade names.

HB 204, repealing RSA 312 relating to auctions of personal property.

HB 19, to reduce the mandatory period for impoundment of dogs and other animals and to increase pound fees.

HB 100, relative to placing the Exeter police department under the control of the town manager.

SB 39, requiring the mailing of resident tax bills within 30 days of the receipt of the tax warrant by the tax collector and changing the requirements for motor vehicle registration.

HB 18, to require the operator of a motor vehicle to report an injury to a dog struck by his vehicle.

HB 86, relative to outdoor advertising control along state highways.

Adopted.

Senator Monier moved to adjourn at 5:00 p.m.

Adopted.

Tuesday, March 22

The Senate met at 3:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Dear Lord, be merciful to us when we pray half heartedly or listen to thee with half a mind. Pity us that we torn and be-

deviled oftentimes with compromises.

We long, however, for a life not touched by difficult decisions, yet we know, that we have only ourselves to blame for the tensions we live under.

Forgive our failings Lord—as we listen to the prayers of our hearts, which come to us when we overlook ourselves and only remember thee.

Amen

Senator Bradley led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGES

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 330, 362, 363, 373, 332, 333, 338, 367, 242, 475 and HCR 4 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 330, relating to the reclassification of certain highways in the town of Ossipee. To Transportation.

HB 362, authorizing the use of highway funds for the functional replacement of land and improvements required for highway purposes. To Transportation.

HB 363, relative to the notices required for the layout of class I and II highways. To Transportation.

HB 373, relative to state maintenance of the road leading to the Bedell covered bridge. To Transportation.

HB 332, requiring records relative to meals and rooms tax to be kept by each operator for a 3 year period. To Ways and Means.

HB 333, providing a penalty for operating a restaurant or hotel after suspension of license for failure to pay meals and rooms taxes. To Ways and Means.

HB 338, relative to fiscal year taxpayers. To Ways and Means.

HB 367, relative to filing requirements and late payment penalties of the business profits tax. To Ways and Means.

HB 242, restricting the horsepower of motorboats operating upon White Oak pond in Holderness. To Transportation.

HB 475, providing for payment of a claim to Charles R. Sargent of Laconia and making an appropriation therefor. To Finance.

HCR 4, memorializing the governor and council to reappoint Major W. Wheelock as superintendent of the New Hampshire Hospital. To Rules.

FURTHER HOUSE MESSAGE HOUSE CONCURS

SB 44, relative to the financial security of horse and dog race licenses.

ENROLLED BILLS REPORT

SB 44, relative to the financial security of horse and dog race licenses.

HB 4, amending the hunting season for raccoons.

HB 5, relative to regulating the licensing of cosmetologists.

HB 18, to require the operator of a motor vehicle to report an injury to a dog struck by his vehicle.

HB 19, to reduce the mandatory period for impoundment of dogs and other animals and to increase the pound fees.

HB 32, relative to the duties of the director of mental health in regard to community mental health programs.

HB 86, relative to outdoor advertising control along state highways.

HB 90, limiting the availability to foreign partnerships of certain trade names.

HB 95, updating the cancer commission enabling act.

HB 105, relative to the revocation and suspension of hunting and fishing licenses pending appeal of conviction of fish and game regulation violation and the statutes relative to littering.

HB 121, relative to town officers' associations.

HB 192, relative to the taking of deer in the town of Auburn.

HB 204, repealing RSA 312 relating to auctions of personal property.

HB 241, repealing the requirement to print hydrophobia symptoms on dog licenses.

HB 138, defining bodies of water 10 acres or more for the purpose of trapping.

Senator Lamontagne for the committee.

SUSPENSION OF RULES

Sen. Sanborn moved to suspend the rules of the Senate so far as to allow a committee report on HB 369 not previously advertised in the journal.

Sen. SANBORN: Mr. President, I ask for this, as I did last week, for the hearing this afternoon, so that we could move the progress of this right along because it's relative to some appropriations that were made in the capital budget in 1974, which lapses on April 1, unless we take this action right off they cannot finish the project which had delineated the bill.

Sen. ROCK: Mr. President, I rise in support of the motion, Mr. President. I think the matter contained in this bill are extremely important to the State and it's people and they are as an out growth of the special session in 1974 which ended early, as you remember this bill was passed in April for capital budget improvements. We are very near a deadline where these funds will lapse if we don't take action on this today.

Adopted.

COMMITTEE REPORT

HB 369, an act extending certain capital appropriations. Ought to pass with amendment. Senator Sanborn for the committee.

Sen. SANBORN: Basically the amendment only adds a footnote it changes the date in the footnote of the 1974 capital budget to June 30, 1979, where it was dying in April 1, 1977. That is basically the entire bill. The expiration date a lasting date of several items that were in the 1974 capital budget. One is the office building for Centralized Data Processing to finish

that out, number two the design engineering of all four buildings. Section three was the reconstruction of the Tobey building and the fourth is the Department of Safety building. It just extends the date and five was the Veterans Home, I must remember to get the Veterans Home in there because that is the one that's in most jeopardy. As you well know the construction is pretty well done there and they would be lapsing the funds before the project was completed. I'm going to ask that Senator Rock complete the explanation on the amendment as he is more knowledgeable than I on the requirements here.

Sen. ROCK: Thank you Mr. President. I would like to put at rest the minds of the members of the Senate as far as funding is concerned, there is no new money, there is no new funding, there are no new appropriations in HB 369 and to the Senator from the 6th district there is no reference to or any possibility that any part of it could be used to have anything to do with the location or relocation of Troop A. That was brought out in committee and thoroughly examined and I can put the Senator's mind at rest on that. The amendment which you have before you on this single sheet of paper deals with the University of New Hampshire Merrimack Valley Branch campus. The budget was passed in the Special Session of '74 and it was passed with an April date which means that by our statutes that bill and the monies unexpended lapse on the same date in April this year, three years later. I must state that the same problem exists here as it exists in some of the other projects, and that is there are still outstanding projects under way that are not completed and would be in jeopardy if the funding lapses at this time. In particular the Merrimack Valley Branch, a great deal of effort was expended in working with the city of Manchester on sewer and water projects. We cooperated with the city and the city was most cooperative with the University in sharing the costs of extending the sewer line from Manchester to the Merrimack Valley Branch site. In doing so, great amounts of time would not necessarily take place occurred. We found after the water lines were completed that a water tower was necessary because of the lay of the land and the water pressures were needed for the building. As you know the building is complete. The first building is up, the utilities are in, the sewer, the water, the electricity have been completed. The water tower is not, and there remains to be done some work on the roads. What we are asking the Senate

to do with the approval of the amendment is to allow that money which is needed for the completion of the water tower, we don't know exactly where we stand on that, and some of the landscaping on the road to occur as the weather gets better and as the months roll on. I also would say that realizing the shortage of money in the state at this time and realizing the budgetary strengths that will be placed on the capital budget the allowing of this money to continue for this project only and it cannot be transferred or used for any other purpose until June 30, 1979 and then let it lapse at the end of the next regular session. I'd be happy to answer any questions relative to the funding of the Merrimack Valley Branch or the usage of the money that we're asking to remain open by this amendment.

Sen. BERGERON: Senator, maybe its too late for what I have in mind, but I think I would just like to clarify something on part 4, the Department of Safety item B & C now are these maintenance type contracts?

Sen. SANBORN: I cannot say exactly for sure, Senator, it's more or less a maintenance capital budget item as I remember it. I'm trying to think back to 1974, to rebuild the Winnetka boat house and dock facility speaks for itself and State Police renovation of the radio station building, I would say that speaks for itself and I imagine both of those were already complete.

Sen. BERGERON: Are they complete or have contracts been awarded?

Sen. SANBORN: We've been assured that all these contracts have been awarded. In fact Senator, I might add we could finish these projects by extending the lapse date a short while longer. In the long run we are going to be able to save money on it.

Sen. MONIER: Senator, would you be kind enough to tell me how much money would lapse if we did not pass this and when it would lapse and what purposes it is expressed for?

Sen. ROCK: The amount at last check, Senator, it's remaining in the appropriation which originally was five point five million dollars is approximately six hundred thousand dollars. The six hundred thousand dollars that now remains would be used partially for the completion of the water tower which was absolutely essential and necessary and to do rough landscaping on the roads which lead to the site development area that is included under item C.

Sen. MONIER: As you well know Senator, I oppose the continued growth of the Merrimack Valley Branch for several reasons. One of which is that consistantly when the Merrimack Valley Branch was first authorized by the legislature we were told it was one building. Now is this six hundred thousand dollars got anything to do with the rating and road structure and the building site facilities for the second building which if in the future was not built would be expended for no purpose whatsoever?

Sen. ROCK: Let me preface my answer Senator, it was never my understanding that there would be only one building on the Merrimack Valley campus site. If that were the understanding then I'm sure we wouldn't have purchased with the legislative approval the amount of land we did purchase. There was never any understanding that there was to be only one building. The building that is now complete is functioning as a classroom building and it is functioning well. It is at the entrance to the campus and if further buildings are approved in subsequent capital budgets, this would become a service building, a campus entrance building and other buildings were used as classroom buildings. The water tower is essential no matter what you do. You've got to have water of sufficient quantity on the site and yes the roads are complete and I might add that for the first time in planning a project of this nature we are doing it first things first instead of piece meal picking up land instead of landscaping and then having to tear it all up to put in a sewer line or tearing it all up to put in utilities. That has now been completed. The six hundred thousand dollars remaining could not be used for any building. It could not be used for any construction other than the completion of that water tower and landscaping that is essential and regrading adjacent to some of the roads that lead to the site.

Sen. MONIER: Senator would you explain to me why in the 1974 supplemental budget or the Special Session budget the water tower was included and it was never included in the first engineering design?

Sen. ROCK: You'll have to repeat that question Senator, I'm not sure I understood it.

Sen. MONIER: The water tower situation at the University Merrimack Valley Branch which has been approved as I understand it within the constructions authorized by the Special Session budget as we are now amending, would you tell

me what was the cost of that and why it was never included in the original cost of the development of that site.

Sen. ROCK: I'd think I'd have to clarify that, Senator, by saying there was money included for bringing in utilities, electric, sewer, and water, and the water tower is part of that expenditure as it is essential to have the proper flow of water and the erection of the water tower is necessary to complete that flow. So the money was appropriated for the development of outside utilities three point seven five million and the water tower is part of that outside utility construction.

Sen. MONIER: If for any reason this six hundred thousand dollars will lapse, would it in any way interfere with the direct services of providing for the students which is a basic thing of that branch university?

Sen. ROCK: It would be pretty hard to flush the johns without water.

Sen. PRESTON: Senator Rock, we voted on a type of a bill that had to do with possibly ten million dollars for the Central Data Processing building. Is this part of that funding?

Sen. ROCK: No. I don't believe so, Senator. Under what part are you looking now?

Sen. PRESTON: I'm looking at the monies for the CDP.

Sen. ROCK: No. I don't believe so but I'd defer it to someone else if they had a different answer. This does not deal with that, to my knowledge.

Sen. PRESTON: Do you know if it's in addition to those monies we had voted for CDP?

Sen. ROCK: Just yield a minute here I don't. . . Again the bill that we are talking about that is being extended is the '74 capital budget bill. If somebody has the '74 Special Session laws I can look it up for you quickly. I don't have it here with me. Senator, I've been informed this is the design money for the building that you voted on in '75 and there are parts of that design that are still not completed and will be necessary for the completion of that building. If you were to cut this off you'd be saying the design money would lapse for a building you subsequently appropriated money for.

Sen. PRESTON: Senator Rock, if you were one of two Senators in the chamber that voted against that 1975 how would you voice your opposition to that part of the bill?

Sen. ROCK: Well, Senator, I can't tell you how to vote. I do know that the reconstruction and renovation of the Toby

building is something that I believe is extremely essential, it's part of this bill. I think that the monies for the safety department are also extremely essential and it was in the wisdom of the house and the senate by majority vote that we go ahead with that design money and I respect the legislatures wisdom in that movement I would say at this point, that has already been voted and if you wish to stop the progress of it, I say you'd probably vote against it. But I couldn't in my heart vote against it at this point.

Amendment to HB 369

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Appropriation Extended. Amend 1974, 38:2, I by striking out said paragraph and inserting in place thereof the following:

I. Merrimack Valley Branch	
(a) Development of outside utilities	\$3,750,000
(b) Construction of first building	1,668,000
(c) Design and working drawings of second building	175,000
Total Paragraph I	\$5,593,000***

7 Footnote Inserted. Amend 1974 38:2 by inserting at the end thereof the following:

***These funds shall not be transferred or used for any other purposes and shall not lapse until June 30, 1979.

8 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to a third reading.

SUSPENSION OF RULES

Senator Sanborn moved that the rules of the Senate be so far suspended as to allow HB 369 be placed on third reading and final passage at the present time.

Third Reading and Final Passage

HB 369, an act extending certain capital appropriations.

Adopted.

COMMITTEE REPORTS

HB 115, stipulating that any local tax payment made by a check returned by the bank for any reason is deemed a non-payment of the tax bill. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this bill treats a person who issues a bad check to the tax collector would be the same as not paying their taxes. Examples were given. Under the present law a person walks in to pay their taxes and they get a paid in full receipt for their taxes and their check later bounces, it has been known that the local tax collector had to chase people down to physically get this receipt returned to him. This clarifies the law and makes those that have bounced a check or sent a check in for other reasons to close accounts whatever subject to any fines, penalties or interest on taxes.

Sen. BOSSIE: Senator Preston, I noticed in the Representative Bednar bill, to put everyone on notice, that there has been an amendment passed by the House on page 282 of the House Journal, would you explain to us what that does?

Sen. PRESTON: Senator, that's a good point and it really should have been brought up on the floor at this time. That amendment was to change the wording and I'm sure the secretary overlooked it which instead of insufficient funds, it should say for any reason, because some of the accounts the checks been returned for reason to close the accounts is an example instead of insufficient funds and perhaps Senator we should take that back and present the appropriate amendment although it is only a two word change.

Sen. PRESTON: The bill was amended in the House. The copy of the bill we have in front of us did not have the word change on it and in the main body of the bill it is now written in, uncollectable for any reason so, it's been read in properly so we are going on the amended version from the House.

Adopted. Ordered to a third reading.

HB 106, relative to the appointment of medical referees by county commissioners. Without recommendation. Sen. Monier for the committee.

Senator Monier moved that the words "ought to pass" be substituted for the words "without recommendation."

Sen. MONIER: I do this so that you may have an opportunity to debate this bill. You cannot without recommendation have much to say about it. Quite frankly, the committee had very little feelings one way or the other on this, although I think one or two of us had developed some feelings since we had the hearing. The amendment without recommendation was to make certain that the Senate as a whole is able to vote on this because we felt it is something of noteworth to all of us representing the different districts around the state. The bill was introduced by Col. Benton from the House for the expressed purposes of what he explained to the committee in letter form was to respond to the constitution question that was given to the judiciary and a reply. To be quite frank about it myself as a member of the committee was not quite sure that is what it had done and that's one of the reasons we did not take a stand on it. Other members of the committee are here to discuss this with you and I certainly hope that you would have debate on it. The only other comment I make is that in appearing before the committee one comment came up that didn't disturb me but I think has some merit in connection with the bill. And that is that medical referees are the ones that legally under the law have an opportunity and the right to call for autopsys and call for various kinds of medical tests in terms of deaths that may be under suspicion and the county pays for this. The only arguments therefore, was that if there going to have to pay for it they ought to have something to do with the appointment of medical referees. The third issue that comes up obviously is political and that issue is very simple, the current time the appointment of medical referees was in the Governor and Councils hands and this would put it into the county commissioners hands. And the committee as I said, didn't have enough testimony to really draw any sharp conclusions one way or another and I recommended to the committee that we come out without recommendation with

the agreement that we would make a motion on the floor so the debate could be held on the floor about it. One last comment to it. I asked an observer to check what this constitutional thing was and specifically the constitutional question that was raised was the elimination of the word coroner specifically so that this would be possible in short so that medical referees would be possible in terms of making the necessary arrangements for medical decisions regarding autopsys and so forth. Actually then it becomes the county or county attorney who pays for all of this and that's one of the reasons supposedly for the argument to have these medical referees appointed by the county commissioners rather than the G & C. The motion is made so that there may be debate on the bill.

Sen. BOSSIE: I don't know if this is a question for you or the Prince of Rockingham County, Senator Preston. I understand that there is a possibility that a medical referee or coronary or whatever you call them in Rockingham county is one other than a physician. Is this correct?

Sen. MONIER: I can't answer that, however, I can say this, this bill does call specifically the medical referee would be a physician. So the issue of it being adopted, this bill does not in any way suspend, they must be a licensed physician. So that issue never entered into the question.

Sen. LAMONTAGNE: Senator, if this bill passes that means instead of the Governor and Council appointing these referees that they will be appointed by the county commissioner. Is that correct?

Sen. MONIER: In a sense that is exactly what it means. It is to transfer the authority of appointment from the Governor and Council to the county commissioner.

Sen. LAMONTAGNE: Don't you think that if this change does occur that you're going to start getting politics mixed into this?

Sen. MONIER: I think Senator Lamontagne, that you'll remember number one that I made a motion so that we could debate this, which does not necessarily reflect my views on the bill, personally. As chairman of the committee, I felt we had to have responsibility to allow the Senate to debate. I could have made another one I suppose. Secondly, obviously I stated that one of the issues here is political. It is politics about who is going to make the appointment and that's another reason the committee wanted this Senate as a whole to debate. Thirdly, I would remind Senator Lamontagne, yes the

answer is yes but it still is now.

Sen. BERGERON: Is it not true that back on November 2, 1976 the voters of the State of New Hampshire voted on this question and the outcome was 192,189 to 64,339 striking from the constitution the authority of the Governor and Council to appoint medical referees?

Sen. MONIER: No. That is not true. That is part of the question. Now I gave you a no answer. I'm a layman alright? The truth of the matter is that my understanding is what was on the ballot was to eliminate the term coroner from the constitution and that was passed. At that time the coroner was taken out so there would not be confusion between the terms of medical referee and coroner. It has then since been interpreted that the medical referee be substituted for the coroner and the Governor and Council would continue to do this. That is what Col. Benton applied to us. It is not a clear cut case in the eyes of all members of the committee. At least it wasn't in mine, I couldn't understand it really. As to whether that also meant that the G & C would not make the appointment, the truth to the matter is I don't think they have made some, because there has been a question about it. That is not what the question on the ballot did say. It was to eliminate the term coroner.

Senator Lamontagne moved to indefinitely postpone.

Sen. LAMONTAGNE: Mr. President members of the Senate, I think you will probably remember that when we went into the home rule that local communities did accept it and therefore I'd like to refer back to the police commission which used to be appointed by the Governor & Council, and now under the home rule the police commissioners are now appointed by the Mayor and Council. I personally feel there has been alot of local politics mixed into these appointments which is worse than having it appointed by the Governor and Council. The worse I'm talking about is when it's appointed by the Mayor or the members of the Council. Now with this bill what it's going to do again is bring the medical referees into politics in Coos County. Myself, I'd rather see the medical referees appointed by the Governor and confirmed by the council and I personally feel that this is a lot better for the counties than to turn around and have the county commissioners appoint the medical referees. I'm hop-

ing you will support my motion.

Sen. PRESTON: Senator Lamontagne, discussions within the committee where we didn't reach ultimate agreement, the feelings were there is a great need for clarification because of this constitutional revision which was voted upon. Would you agree that we should clarify it once and for all as to who should make these appointments?

Sen. LAMONTAGNE: Senator, let me answer in this way. As far as I'm concerned the medical referees up north haven't had any problems or trouble of any kind. It's always worked out fine when appointed by the Governor & Council. That's why I don't want to see this system changed.

Sen. PRESTON: Senator Lamontagne, do you feel that presently they still have that authority as a result of that vote? That's the question.

Sen. LAMONTAGNE: You're talking about the County Commissioners?

Sen. PRESTON: The sponsor of this bill presented it to clarify where the situation should now be. It's their feeling as a result of the vote taken that no one really knows where the responsibility lies, whether the G & C have the right to appoint or the county commissioners. And that's why we tried to present this in a way to debate it on the floor to make a determination to clarify the situation; because it's not clear to them.

Sen. LAMONTAGNE: Well, Senator, as far as I'm concerned, let me say this, if the Senate vote by majority to indefinitely postpone this bill it's certainly going to give some type of decision as to what the general court is feeling about it.

Sen. TROWBRIDGE: I respectfully disagree with Senator Lamontagne. I suppose it has a little bit to do with experience in where Coos County everything is going fine, Senator Lamontagne. I have had occasion in the last two months to view some rather disturbing situations in my area which could happen to yours. Where the medical referee has no one he reports to. He reports technically to G & C but obviously he doesn't get into their office very often, and so you get some rather touchy situations where a medical referee can make a determination not about life or death but as to who was responsible during the nursing care or treatment of a patient. I've been involved and I won't mention who it is, but some very good nurses in my area who feel they've been really taken over the coals by a medical referee unfairly with-

out due hearing and I have the feeling that if the county commissioners had been in charge of the medical referee in appointing him, locally this would have been worked out; but because there isn't anybody above the medical referee in essence you find that he says I don't care what you say I'm being paid by the county but I'm appointed by the Governor why bother. There is no responsibility there. I hadn't realized that this could happen until two months ago and it really can do a great deal in damaging professional reputations and I think there is a good deal to be said for having this control locally by people who would respond if medical referee really did in some way get out of line. So I put it to you, Senator Lamontagne, it could be different in your area, but that's been an experience that I've had recently and therefore I will vote against indefinite postponement.

Sen. HANCOCK: Mr. President, I'd like to bring to the attention of the Senate the feelings of the New Hampshire Medical Society and with your permission will read from their letter of March 11.

Some confusion has arisen over *HB 106*. May I attempt to clarify the position of this Society.

The present system of medical referee appointments by Governor and Council has been in effect many years.

RSA Chapter 611 was amended in the 1973 legislative session to provide for such appointments by the county commissioners. The N.H. Medical Society opposed this legislation. It was subsequently declared unconstitutional by the New Hampshire Supreme Court in Opinion of Justices, 114 NH-, 315 A2d 858 (1974).

It appears the sponsor of *HB 106*, the Honorable Richardson D. Benton, Rockingham County District No. 2 introduced the measure on the assumption a November Referendum Question having to do with revisions of the statutes pertaining to Constitutional Officers and found to be meritorious by the voters, covered the issue of medical referee appointments previously found unconstitutional by the Court.

Obviously, it would require another test opinion to gain such verification.

In any event, the Society was in 1973 opposed to altering the medical referee appointment formula and is still opposed for the following reasons:

It is not always easy to get busy physicians to assume the role of a medical referee. For many years, Governors have consulted the N.H. Medical Society when a medical referee vacancy occurs. The Society has now for many years accepted the responsibility, when required and requested, to seek out physicians for this purpose and forward their names to the Chief Executive for such subsequent appointment.

It has kept the system free from politics. It has provided the Chief Executive in advance the names of physicians willing to accept appointment when offered. It has strengthened the system by finding qualified persons for this responsible task. It has tightened the process by assuring the State that the organization of professional men, physicians, encourage its members to accept such appointment to the benefit of the State and its citizens when offered through the appointment channel of Governor and Council. The system NOW works. New Hampshire has a basic system of competent physicians serving as medical referees within the framework of the law.

We are hopeful *HB 106* now before the honorable Committee will be rejected for the reasons given above.

It is the opinion of this Society *HB 106* is NOT in the best public interest.

It is our further opinion the honorable Senate Committee with this current information available to it, may see the merit in keeping the present medical referee appointment system by Governor and Council intact and not concur with the House-passed measure, *HB 106*.

I might say in answer to Senator Preston's question, I did question Attorney Jennings on this point and the system of present appointment would prevail, does prevail. It's now in existence and so that is not a question at the present time whether or not this law goes through the Governor & Council to appoint medical referees and I support Senator Lamontagne's motion.

Sen. MONIER: The question I was just talking with Senator Bradley about is the fact that if we do not pass this bill the Governor & Council would still obtain the power to appoint medical referees. I would like once again for you to tell us why that is?

Sen. HANCOCK: Well, this is what the law currently says and as you pointed out the question of removing the coroner from the constitutional question did also remove the method of appointment.

Sen. MONIER: The medical society testified to what I asked them about RSA on that and never received it, the one that still authorizes it. Can you give it to us for the record?

Sen. HANCOCK: I can't give you the citation but I did check with Don Jennings, he said that it does exist and that it is currently on the statutes. The Governor and Council have this authority. I'm sorry I don't have the citation.

Sen. BRADLEY: Mr. Jennings may be right; but the problem that Senator Monier and I were just trying to get to the bottom of is this, that if you go back prior to 1973 there was a statute on the books as I understand it that said that the Governor and Council shall appoint the medical referees. In 1973 we passed an act which repealed that section and inserted a new section which said the county commissioners shall appoint medical referees. The Supreme Court comes along and declares that unconstitutional and void. Then the constitution gets amended and says and takes away the power of Governor and Council to appoint coroners which is equivalent to medical referees. Now the question is what authority does the Governor and Council have to appoint the medical referees? The statutes they used to have would have repealed the constitution provision which dealt with explicitly now has been repealed. There may conceivably be some general power to appoint other officers but I don't see it in my quick review. I think it's a very real question as to whether or not anybody has the power to appoint right now.

Sen. DOWNING: Mr. President, I rise in opposition to the

pending motion. I would like to see the bill pass. It just boils down that the county has the responsibility for paying the bills they ought to have the authority to appoint the people. It's just as simple as that. I urge you to defeat the present motion and pass the bill.

Sen. SMITH: I rise in support of the motion and I do so for several reasons. What Senator Bradley has said may be true. If this bill were indefinitely postponed, another bill could be brought in clarifying the present statutes and say that the medical referees be appointed by Governor and Council if that is not in the statute and there seems to be some question. I think if you will recall that the word coroner was deleted from the constitution basically because it was an obsolete word in that we do not practice the appointment of coroners but rather medical referees and what the difference between coroner and medical referees is, I'm not sure. The other reason why I rise in opposition to county commissioners appointing medical referees is that when I served on the Governor & Council we had many appointments of medical referees. This is not a plumb which is sought after by doctors. As a matter of fact the Governor and Council along with the Medical Association had to go out and push arms to get people to serve as medical referees in most instances or many instances. I'm afraid that if you put it into the county commissioners hands that they will not have the swat to get people to become medical referees. Senator Trowbridge brought up the point of a problem with medical referees in his area and this may be a problem, but I would think that it would be easier and less political if there is a problem to bring a medical referee in an excuse him for cause if he was appointed by G & C rather than if he had some kind of relationship on a local level with county commissioners and for that reason I would support Senator Lamontagne.

Sen. LAMONTAGNE: Senator, would you agree with me that if this medical referee is appointed by the county commissioners isn't it possible that the county delegations would get mixed into this appointment also?

Sen. SMITH: I would think there was a possibility.

Sen. BERGERON: Senator, you may have resolved part of the question that I've had but as I sat here and listened to Senator Bradley and then I listen to you, I found myself in a complete vacuum if I were to go along with Senator Lamontagne's motion can you tell me based on Senator Bradley's answer, who is going to appoint these people?

Sen. SMITH: What I was referring to here was that if you go along with Senator Lamontagne's motion and there is some vacuum in the present statute, Senator, I find myself in a vacuum many times also. If the statutes make no statement from parliamentary inquiry that I just asked it seems reasonable to me that a bill could be introduced to clarify that G & C will appoint medical referees.

Senator Monier moved to recommit.

Adopted.

HB 172, permitting tax collectors to use automatic or electronic data processing equipment in certain cases. Inexpedient to legislate. Senator Hancock for the committee.

Senator Hancock moved to recommit.

Adopted.

SB 95, relative to the taking of yellow perch and white perch for commercial sale. Ought to pass. Senator Healy for the committee.

Sen. HEALY: After thinking about this I think this is a fishy bill that was assigned to me to report on and the vote was unanimous on making a report on this. This bill **SB 95** is a bill by Senator Blaisdell. Actually the bill is essentially to allow commercial fisherman to take white perch and yellow perch to be sold in restaurants. It has the approval and support of the Fish and Game Department. For many years these fish have been very prolific actually in the streams and been harmful to some of the more important fish. One of the Fish and Game Department officials reported on many occasions where they take these fish and they bury them. In the way of food, they felt it might be a good food resource for people who enjoy fish, so as a result our good Senator Blaisdell sponsored this bill and has the full endorsement of the committee.

Sen. BRADLEY: Senator Blaisdell if we pass this bill will it be possible for the public to determine which hotels and restaurants are buying these suckers?

Sen. BLAISDELL: I'm not going to answer that.

Adopted. Ordered to a third reading.

HB 143, requiring a permit and fee for a commercial fishing tournament or contest. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, this is a request from the Fish & Game Department and they relate that many organized groups which meet at various resort areas throughout the State carry on tournaments and it is their belief that such groups should be charged a permit fee for these tournaments and they would adopt regulations for such tournaments or contests and hope to gain a small fee as a result.

Sen. BERGERON: Senator, with this bill the local Lodge of Elks who sponsor a fish tournament for kids from 10-14 years paying a license fee, or a permit fee?

Sen. HANCOCK: No. I think what they had in mind were large companies that go to a particular resort area and carry on contests and tournaments of quite some size and they would, I suspect their regulations would cover that Senator Bergeron. But they were not terribly specific. What they used for an example would be if General Electric for example were to have a gathering at a resort area and carry on a contest, fishing tournament, they felt the depletion would be as such that it would be just to require this permit fee of the organization.

Sen. BOSSIE: Senator, from the reading of the bill one who participates in a venture of this nature would not be subject to the penalty, just the person who promotes or operates it. Is that correct?

Sen. HANCOCK: That is correct. The resort area itself would be the one responsible for carrying out the fee, providing the fee.

Adopted. Ordered to a third reading.

HB 210, making it illegal to take trout less than 6 inches in length. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this is a very simple bill making it illegal to take trout less than 6 inches in length. The sponsors are Rep. Huggins and Bisby two very well known

sportsman. The bill had come through the House once before and died in the Senate. There have been many studies done on this by the Fish and Game Department. The biologist in fishing game was opposed because of study going on and the North Country Sportsman feel less than 6 inches should be left in the water to propogate the trout that have not been stocked in that area. They think the depleted stock trout is the result of some fisherman not necessarily the real sportsman but the visitors who take fish of any size. So we move ought to pass.

Sen. LAMONTAGNE: Senator, what was the opinion of the Fish and Game?

Sen. PRESTON: Richard Seemans, the Chief of Fisheries said the Fish and Game Department did appear in opposition to the bill as he had before. He indicated that some of the trout they stock don't grow to more than five or six inches. He met opposing view points by some of the sportsman. The Fish and Game Club from Berlin, N.H. appeared in favor of the bill which weighed heavilly in the committees minds to report out ought to pass, because of the north country's feelings on these trout. It's controvercial. The biologists tended to agree with some of the sportsman, Senator. But the feelings are the stock trout don't grow much over six inches. That's the argument of Mr. Seemans. The North Country Sportsman and others do feel as though the trout will grow larger if allowed to do so.

Sen. LAMONTAGNE: Senator, was there any testimony in reference to once the fish if hooked and taken off the hook and thrown in the water that that fish will die?

Sen. PRESTON: That was mentioned. Mr. Seeman said the hooking mortality is substantial. Those were his exact words.

Senator Bradley moved to indefinitely postpone.

Sen. BRADLEY: Mr. President, I don't propose to be an expert on this question. But I do assume that the Fish & Game Department know what they are doing and that they have good reasons for the regulations which they have that you ought to keep the trout if it's under six inches. I don't think the legislature ought to hold themselves out to having expertise and I don't think we ought to waste our time with these kinds of bills. This is one of those sort of things we ought to leave to the Fish and Game Department to reasonable regulations and I hate to see us in here regulating this kind of thing

and for that reason I think we ought to kill this bill and not waste any more time on it.

Sen. ROCK: Senator Bradley, do you share the belief in the separation of powers of government?

Sen. BRADLEY: Yes indeed.

Sen. ROCK: Do you believe that the authority granted under our constitution to this legislative body is to make the rules of the State or the laws?

Sen. BRADLEY: Yes, included in that is a wise decision on our part as to whether or not when we pass a statute and set up a agency whether we delegate rule making power to that agency and it's always a nice question and good judgment as to when you should try to pass the law yourself or leave it to your agencies to pass the rule or regulation. I think this is clearly one of those cases where the legislature should delegate that responsibility to an agency.

Sen. ROCK: Are you telling me Senator that you believe that this senate hasn't got the wisdom to enact proper legislation that could be carried out by the Fish and Game Department?

Sen. BRADLEY: What I'm saying is that I believe that wisdom when it comes to the question of the length of trout or the length or timing of the season on woodchucks or whatever should not be decided by this Senate.

Sen. ROCK: Would you not agree with me Senator that is the purpose of the hearing process, so that the Senate can have input and receive the wisdom of others and then make up it's mind and in it's judgment pass laws which under the constitutional separation of powers are mandated to these department heads and who must then follow the laws we write?

Sen. BRADLEY: Well, there is no question that the senate has the power to pass this bill. We have the power to take away all rule making power by the Fish and Game Department. There is no question about our power. The question is whether it is wise and sensible for us to do so. And it seems clear to me that it's not wise and sensible for the Senate to attempt, even attempt to educate themselves in passing this kind of thing. Perhaps we are right on this one. I don't know. It seems to me in the long run the odds are heavily in favor of the Fish and Game Department making a better decision on something as specific and really small as to the question of the length of trout than this Senate is notwithstanding the fact we have the hearing process and all of that.

Sen. ROCK: Senator have you ever felt obsessed or frustrated by department heads who come in and tell you how to write the laws of this State?

Sen. BRADLEY: No. Whenever they do that, I just take that as advice like any other citizens advice and give it proper weight.

Sen. LAMONTAGNE: Are you aware that the Fish and Game commission and the director hold hearings in different parts of this State on regulations for fishing and also for proposed legislation? Are you aware of this?

Sen. BRADLEY: I had heard tell, although I am not personally very familiar with the process.

Sen. LAMONTAGNE: The Fish and Game and Director have these hearings in different parts of the State and bring it back to the local communities.

Sen. BRADLEY: I would accept that if so.

Sen. POULSEN: Mr. President, I rise in opposition to the motion. I'll probably get in trouble at home but we have had this law on the books for so little time now that you can catch any length fish and fishing hasn't improved. You can catch a limit except there is no bonus any more. You never do seem to get a big one. I think it's worth the odds just to try it even for only two years or three and see if we don't get some big trout out of it. We surely are not getting large fish the way it is. Maybe we will if we have a six inch limit.

Sen. BOSSIE: If what you say is true Senator, then why don't we make the season shorter or for one season why don't we call off all fishing? If that's what you want to do.

Sen. POULSEN: Senator, I don't think that has much to do with it. It's almost a pull and take proposition. They put them in one brook and get them out of the other. Where the mortality is so high in taking them out, I think the chances of reaching maturity is slimmer and slimmer, I think give them a chance to see if they can't be an eight or ten inch fish somewhere in the brook.

Sen. BOSSIE: I rise in favor of the motion of indefinitely postpone. Personally I don't care whether it's 6 inches in length or 6 feet because I am not a fisherman and I do care for the ecological purposes of preserving whatever fish we do have. I've received one phone call from one of my constituents who has advised me and this has been discussed earlier, that for fly fishing there is no problem if you hook the fish, you can get them off the hook and throw them back in

and it's not too much of a hole. If you are worm fishing and you hook them good and if you throw them back they are just going to float away and so at the same time I agree with Senator Rock to a great extent that we are the dog and these departments are the tails. I, for one, are getting sick of them trying to wag us; but I don't have any great problem with them trying. I just wish they'd mind their shops a little better and leave us to do the legislating and determining policy. In this instance I agree with you that they should, the department should determine if they should have a shorter season to do what they want or if it should be six inches; but I think what we have to do is indefinitely postpone this bill.

Sen. FENNELLY: I rise in support of the pending motion. I think that in this particular case that we should take the advise of the Fish and Game Department. They are experts in the field. As an example there were some sportsmen who testified in favor of the bill. If we listen to the sportsmen of the state and I'm not saying anything derogatory that we would have hunting 365 days a year. So, I ask the Senate to support the present motion.

Sen. SMITH: I rise in opposition to the present motion Mr. President and I do so with some feeling of sympathy for the position of Senator Bradley. I think that the departments can generally pass rules and regulations but I look at this bill and I see that the sponsor is Representative Huggins who has a knowledge and love and dedication to sports, activities in the north country and is familiar with woods and streams and has a great deal of knowledge in the field as to the fishing laws and the problems of these laws. I have a great deal of respect for the biologists and the Fish and Game Department; but I think once and a while the legislature must pass a law and say what shall be done and back in 1963 the first bill that I introduced in the legislature was a bill to abolish the deer line in the State of New Hampshire and it passed with wailing from the biologists and wailing that this was going to be terrible for the deer herds and this did not come to pass. I think it has saved a number of lives by eliminating the deer line. I think sometimes the legislature has to stand up and try something. Now maybe in two years we find that this 6 inch limit is not workable. Then you change it; but I think that the present law where we repeal the 6 inch limit has not worked and therefore give this a try again. Maybe as Senator Poulsen said, we'll find something more than a mino.

Sen. TROWBRIDGE: Is it not true that we spend a great deal of money stocking fish which are then pulled out at 2, 3 or 4 inches?

Sen. SMITH: That's correct.

Sen. TROWBRIDGE: Did we not have the fish and game budget today?

Sen. SMITH: Correct.

Sen. TROWBRIDGE: Would you not conclude that if you pass this bill you wouldn't need to stock any fish?

Sen. SMITH: I think that's very possible.

Sen. BLAISDELL: Mr. President, I rise in opposition to the pending motion. I'm sure many of the fish and game people are sitting in the chairs right now; I'd like to show you this beautiful blouse Senator Foley has on, do you believe that we should catch fish that small? I would have to say that I would go along with Senator Poulsen on this. I think we should give this a chance since we have the power in the legislature. I think that Harry Huggins who's been in this legislature for a long time is a well respected representative and that after talking with him even after talking with Dick Seemans I'm going to go along with Harry Huggins and have this tried for a couple of years. If it doesn't work, then certainly we can recind it. I think it's a excellent piece of legislation. I hope you vote for it.

Senator Bradley moved to indefinitely postpone.

Senator Bergeron moved the previous question.

Adopted.

Motion to indefinitely postpone. Division vote.

8 Senators voted yea.

15 Senators voted nay.

Motion failed. HB 210 ordered to a third reading.

ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution, and that all titles be the same as adopted, and that when we adjourn, we adjourn in honor of Senator Bergeron who is celebrating his birthday today, until Wednesday, March 23 at 3:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 115, stipulating that any local tax payment made by a check returned by the bank for any reason is deemed a non-payment of the tax bill.

SB 95, relative to the taking of yellow perch and white perch for commercial sale.

HB 143, requiring a permit and fee for a commercial fishing tournament or contest.

HB 210, making it illegal to take trout less than 6 inches in length.

Adopted.

Senator Keeney moved to adjourn at 4:45 p.m.

Adopted.

March 24, Thursday

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Our Father, give to the people of these United States and to our leaders old fashion honesty and the old fashioned love of our country that sought to give rather than receive.

We ask for strength suited to our tasks that will prod us onward to unseen and unheard of heights of greatness.

May we so live, that sacrifices which have been made for us shall not have been in vain.

For this we implore thy guidance daily.

Amen

Senator Bossie led the Pledge of Allegiance.

Senator Sanborn is in Boston on senate business and was deemed present.

INTRODUCTION OF SENATE BILLS

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 119-127 and CACR 13 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 119, relative to allowing compensation for supervisors of conservation districts. (Lamontagne of Dist. 1—To Environment)

SB 120, relative to including investigators in the office of the attorney general in the definition of law enforcement employees entitled to additional salary increases. (Bossie of Dist. 20; Rep. Murray of Belknap Dist. 9—To Judiciary)

SB 121, providing for the defense and indemnification of state officers and employees against certain claims. (Bossie of Dist. 20; Rep. Chambers of Grafton Dist. 13—To Finance)

SB 122, prohibiting the manufacture, transportation, possession, or use of virulent hog cholera virus and redefining the word garbage in RSA 144 relative to the feeding of garbage to survive. (Blaisdell of Dist. 10—To Public Institutions)

SB 123, relative to the power of certain colleges to grant degrees. (Smith of Dist. 3—To Education)

SB 124, relative to suspension or revocation of real estate brokers' or salesmen's licenses. (Preston of Dist. 23—To Administrative Affairs)

SB 125, utilizing sweepstakes commission funds to provide aid to public libraries. (Healy of Dist. 16—To Finance)

SB 126, relative to police officer's attendance at public functions. (Provost of Dist. 18—To Executive Departments, Municipal and County Government)

SB 127, relative to vacancies in the office of mayor of

Nashua. (McLaughlin of Dist. 13; Rock of Dist. 12; Keeney of Dist. 14—To Cities Legislation)

CACR 13, Relating to: Legislative Districts. Providing That: A Town, Ward, or Place may be Referendum Request that the Legislature Divide it into Two or More Representative Districts. (Keeney of Dist. 14—To Senate Sub-committee of Legislative Facilities)

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 360, 168, 308 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 360, relative to the training of hunting dogs. To Recreation.

HB 168, prohibiting the erection of advertising devices beyond 660 feet from interstate or federal aid primary system rights of way. To Transportation.

AN ACT HB 308, relative to the employee discount utilized by electric utilities. To Energy.

ENROLLED BILLS REPORT

HB 115, stipulating that any local tax payment made by a check returned by the bank for any reason is deemed a non-payment of the tax bill.

HB 143, requiring a permit and fee for a commercial fishing tournament or contest.

Sen. Lamontagne for the committee.

SUSPENSION OF RULES

Senator McLaughlin moved to suspend the rules of the senate so far as to allow **SB 127** be placed on second reading at

the present time without a previous hearing or notice of a committee report.

Sen. McLAUGHLIN: Mr. Chairman, members of the Senate, I asked for this this afternoon due to the fact that we will not be here next week. I request that this be passed and sent over to the House so they can have a regular hearing and proceed on this bill. The reason being that the city of Nashua has a four-year term for the office of mayor and, unfortunately, the City of Nashua, the mayor we have now has been sick for a considerable length of time, and he still has over two years and eight months left to go in his term at the present time. We are having a problem with the aldermen-at-large as to who will take his place, and it's complicated. We are hoping to have this bill passed so that if the mayor of the City of Nashua resigns in the very near future, which he may do, we may have a citywide election in the City of Nashua, and that way all the voters of the City of Nashua will have an opportunity to vote for anybody they so desire. Previously we had a two-year term for the City of Nashua, which wasn't bad, but now we have a four-year term, and there is now two years and eight some-odd months left, and I ask for this so that the people of Nashua will have an opportunity to vote for whomever they so desire that wants to become the mayor of Nashua. In doing so we will have all the rules passed and laws passed to do this, and everybody will have an opportunity and fair chance to become the mayor of Nashua, if they so desire.

Sen. HEALY: A question of Senator McLaughlin. Did I hear you say ask Mayor Sullivan to resign?

Sen. McLAUGHLIN: No, he is thinking somewhat seriously of resigning, due to his health problem.

Sen. HEALY: It would be voluntary?

Sen. McLAUGHLIN: It only takes place when a man had a death or resigned himself. There is no way to replace anybody who is presently in office under this bill whatsoever.

Adopted.

SB 127, relative to vacancies in the office of mayor of Nashua.

Sen. McLaughlin moved that **SB 127** ought to pass.

Adopted.

Adopted. Ordered to a third reading.

SUSPENSION OF RULES

Sen. McLaughlin moved that the rules of the senate be so far suspended as to allow **SB 127** be placed on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

SB 127, relative to vacancies in the office of mayor of Nashua.

Adopted.

PARLIAMENTARY RULING BY THE CHAIR

I have now reviewed the question of reconsideration on the motion to postpone indefinitely. *Mason's Manual of Legislative Procedure* does not give a clear statement. *Hughes' American Parliamentary Guide* clearly states that the motion to postpone indefinitely may not be reconsidered. *Hughes'* argues that *Jefferson's Manual*, the fundamental root for all succeeding legislative manuals, states that the intention of the motion of indefinite postponement is to suppress any further discussion on any question so postponed and that the motion to indefinitely postpone has the character of an indefinite adjournment of a legislative body or the continuance of a suit sine die. Taking the above comparative examples, it would appear to be impossible to continue any discussion of a question indefinitely postponed. I requested an oral opinion from the Attorney General as to the intention of what is stated in *Jefferson's Manual*. He agrees that reconsideration would be impossible, given the phraseology of *Jefferson's Manual*.

In 1955, the provision for a 2/3 vote on the question of indefinite postponement became part of the Rules of the Senate. Unfortunately, I have been unable to uncover any discussion on that question. I can only surmise that the introduction of this rule was intended to provide a way out from the original finality of indefinite postponement. On the basis of my research, I have concluded that the motion for reconsideration of the motion of indefinite postponement must be con-

trolled by Rule 9 of the 1977 Rules of the Senate. Such shall be my ruling unless otherwise ordered by the Senate.

Senator Bossie moved to take the motion to reconsider **SB 57**, off the table.

Adopted.

Reconsideration of Sen. Smith's previous motion to indefinitely postpone **SB 57**, making an automobile to the value of \$2000 exempt from attachment and execution.

Sen. BRADLEY: I want to rise again briefly to urge you to vote in favor of reconsidering this thing and if it, whereby, some wild chance it were reconsidered, I would then ask to have the bill recommitted to the committee. Now, as I said before, I don't want to rehash old ground on this thing—when the thing was debated—my concern with this bill is that I feel that I gave you wrong information and that the vote on this bill was based on erroneous conclusions of what the status of what the law is and I feel more badly about that than I do about the merits of the bill. Once again, this bill would not, in my opinion, now—and if you returned it to my committee, I will make it absolutely clear that there will be no problem with the question of the bank's right to get a good lien on this property and there would be no question on the availability of financing with respect to automobiles if you pass this bill. I would say also that it would probably be the inclination of the committee to lower the sum involved substantially, if returned to us. Having said that, I think it is time for us to dispose of this thing, one way or the other.

Senator Rock requested a roll call. Seconded by Senator Fennelly.

The following senators voted yea: Lamontagne, Gardner, Bradley, Saggiotes, Bliasdell, Trowbridge, Keeney, Hancock, Healy, Downing, and Foley.

The following senators voted nay: Poulsen, Smith, Monier, Rock, McLaughlin, Provost, Brown, Bossie, Fennelly and Preston.

(Sen. Bergeron recorded against the motion)

11 yeas 10 nays

Motion failed by the requisite 2/3 majority.

COMMITTEE REPORTS

SB 103, specifying certain items for the state prison in the 1975 capital budget. Ought to pass with amendment. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: The amendment is on page 5 of our calendar. What it is saying here in essence is that we have to specify exactly what has to be bought for the state prison. This money was appropriated before—there is no money in this bill whatsoever. We have already allotted the money. It is a case where the people in the state prison went to the Comptroller's office to buy certain articles to be more clearly spelled out. So in the amendment it is spelled out exactly what is needed—the amount of money of \$30,700 and we asked you to pass this so we can buy this piece of equipment to be used in our state prison.

Amendment to **SB 103**

Amend the third asterisk footnote following 1975, 504:1, XI as amended by 1976, 37:1 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

***Equipment to be purchased includes 2 offset presses; one 14'' band saw; one 24'' scroll saw; one 10'' radial arm saw; one cold type, type setting unit; one temperature controlled sink and one temperature and humidity control unit for offset room and dark room.

Amendment adopted. Ordered to a third reading.

SB 74, relating to the regulation of polygraph examiners. Ought to pass. Senator Bossie for the Committee.

Sen. BOSSIE: I had the privilege of both sponsoring the bill and bringing it out of the Judiciary Committee with an "ought to pass" recommendation. This bill was requested by the Manchester Police Department as well as the New Hampshire State Police and it deals with the registration of polygraph examiners. As you know, polygraphs are lie detectors and we have approximately 12 people who do polygraph examinations and these are people who have skills and have become trained in the use of polygraphs by attending schools—there are approximately 6 or 8 polygraph schools in the U.S., the largest of which is in California and everybody that is using the polygraph in New Hampshire has been to one of these schools but there is no requirement or regulation of them that a person need be a graduate of one of these schools. So what this would do is provide a system whereby you could become a certified polygraph examiner and it would provide a fee and various requirements that I have looked over very closely, to permit you to hold this license from the State of New Hampshire. And it also provides for honesty, and if you aren't honest and it is found that you do not comply with the rules and regulations, that you will be decertified and will no longer be able to practice that profession for which you should be certified. Lieutenant Broudeur of the Manchester Police Department, Sergeant Porter of the New Hampshire State Police—both have testified that this is the coming thing and, although in New Hampshire the results from a lie detector test are not admissible in the courts of law, one day they might be. It was testified that it is believed that 95% to 98% are accurate. A lot of times people and employers are using these lie detectors to screen applicants for positions and we feel that to have them properly registered—as we know now, there is one private group operating in New Hampshire. It is out of the New Hampshire Plaza of Manchester, who give private lie detector tests. Obviously, we have a certain amount of faith in our local police departments and the State Police and presuming that they are honest, this will rather safeguard it and at the same time will put some hold on these people who might come to the state trying to make a quick dollar. So we recommend it and think it is a good step forward and we recommend "ought to pass."

Sen. SAGGIOTES: A question of Senator Bossie. Is there going to be a fee charged for the license?

Sen. BOSSIE: Yes, I believe it is something minimal, such as \$10 or \$5.

Sen. SAGGIOTES: Where will the fee be paid? To whom will it be paid?

Sen. BOSSIE: The State of New Hampshire. The testing will be by the State of New Hampshire.

Sen. SAGGIOTES: Further question. Who shall administer the funds collected from the fees?

Sen. BOSSIE: It says here it goes to the state of New Hampshire. I don't know things of that nature. Since there are only twelve of them, it would be \$60. I am sure most of it will be used up in administrative costs.

Adopted. Ordered to a third reading.

HB 214, providing a penalty for the false reporting of a motor vehicle accident. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: HB 214 was requested by the commissioner of safety. What the bill basically does is to cover a loophole. The loophole presently offers a penalty for anyone writing a written report pertaining, say, to bomb threats—it doesn't give any penalty for anybody who reports an accident or—basically, this just covers the loophole at the present and makes it a misdemeanor.

Adopted. Ordered to a third reading.

HB 252, guaranteeing freedom of speech, right of criticism and disclosure for all state employees. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: The bill which you have in front of you wasn't amended in the House. The House simply struck out Section I of the bill and renumbered the rest of the bill so that the real guts of the bill are entirely in Section II of the bill, which is in front of you which simply says "no supervisor or department head, executive officer, elected or appointed officer, of the state, shall interfere in any way with the right of freedom of speech, full criticism or disclosure by any state employee. This is a bill which, in substance you have seen before, in the last session, introduced by Representative

Daniell. It passed the house two years ago, I believe, very closely—I don't have the figure, but I understand it passed the House this time by a margin of two or three to one. The committee heard testimony on the bill from Representative Daniell of the number of people signed in favor of the bill. The only opposition to the bill before our committee was in the form of a letter from the Governor's legal counsel, Mr. Bigelow, who raises certain objections to the bill. I think that in a way it is too bad that a bill such as this is required because if we do have the right of free speech, it ought to be recognized but I personally think this is one of those areas where constitutional right is better protected and better carried out—and apparently it is necessary in this state, that we have a statute such as this. One of the legitimate questions that I think was raised by the Governor's legal counsel—and I concerned myself with when the bill was before us two years ago is whether or not this would preclude someone whose job it is to, let's say, instruct a course—whether it would preclude the supervisor of that person from telling the person what he is to teach in the course and I am satisfied in reviewing this that this bill would not extend to that sort of thing. In other words, this bill does not, I feel, prohibit any superior from directing a subordinate employee when the issue is what that person is supposed to say as part of their required duties are to instruct in some particular thing. That can be specified. That does not go to the question of free speech. It is only when some employee speaks out on some manner outside of the scope of the required duties. The right of free speech would be protected either under the constitution or under this measure. We urge it's adoption.

Adopted. Ordered to a third reading.
(Senator Monier voted in opposition.)

SB 71, providing for state assistance to persons suffering from hemophilia and making an appropriation therefor. Ought to pass. Senator Rock for the committee.

Sen. ROCK: Mr. President, this bill has been before the Senate previously in other sessions. The bill establishes a program of assistance to persons afflicted with the disease of hemophilia and the amount of the appropriation is \$40,000 for the biennium. The testimony at the hearing gave very strong

support to the concept of this bill. We would hope there would be the funding available to take care of at least getting this program off the ground. It was previously passed by the Senate in the 1975 session and was referred to the House and in the Committee of Conference on the budget, it died.

Referred to the committee on Finance.

SUSPENSION OF RULES

Senator Trowbridge moved to suspend rule 24 in respect to **SB 71**.

Sen. TROWBRIDGE: I do believe that this bill came up before the entire Finance Committee previously and we voted with the Public Institutions, which is part of five of the eight members. At this point, I doubt there would be any further purpose in having it referred to Finance.

Adopted.

Adopted. Ordered to a third reading.

HB 181, allowing senior citizens to play beano for a nominal cash prize. Ought to pass. Senator Downing for the committee.

Sen. DOWNING: HB 181 just kind of legalizes what is already a practice. We have to be licensed by the selectmen to have a beano game in an area and many are charitable organizations. This is a means of raising money. However, you are limited to one license per day, so six to seven licenses per week. The Senior Citizens being a relatively new organization have started the beano games on their own strictly for their own membership, recognizing themselves without a profit—purely an entertainment—and in order to do it legally, they would be taking away one of the licenses from one of the other fund-raising organizations. This way, it puts them into a separate entity by themselves restricted by the amount of money that is involved and who can operate the games. It is a good bill.

Adopted. Ordered to a third reading.

Senator Bossie moved to take up HB 17, HB 236, HB 6, HB 153, HB 30, HB 233, HB 234 and SB 53 with just one day's notice in the calendar.

Adopted.

HB 17, permitting absentee voting in elections of the union school district in Concord. Ought to pass. Senator Blaisdell for the committee.

Sen. BLAISDELL: HB 17 was introduced by Representative Ken Tarr. It was read before the Education Committee. Three people came to that hearing, Mr. Tarr, being #1, another member was Mrs. Anastis, who is the District Manager with the Concord School Board, and Mr. R. Peale, who was a former member of the Concord School Board and it does just what the bill states—it permits absentee voting in Concord's Union School District and it has to be voted on by a majority in November, 1977. If there is no opposition, the Committee asks your unanimous approval.

Adopted. Ordered to a third reading.

HB 236, relative to the student trustee in the state university system. Ought to pass. Senator Smith for the committee.

Sen. SMITH: This is the same bill, basically, that came to us two years ago with one addition, and that addition is that it leaves a grandfather clause in there so that the existing student trustee would remain for the remainder of her term. The Committee voted favorably upon this bill and what it does is give a one-year term for a student trustee and states that the student trustee be rotated between Durham, Keene and Plymouth. The committee felt that it was important that this bill be adopted and the testimony at the hearing was overwhelmingly in favor of it. Only one person from the Governor's office appeared in opposition—or did not appear in opposition to it, but sent a letter in later in opposition to the bill. I think the Governor's concern is that it takes authority away from the Executive Branch and the appointment of trustees. There are presently twenty five trustees of the University System. The Governor himself, plus eleven appointees are directly appointed by Governor and Council. The student trus-

tee is presently appointed. The Commissioner of Education, ex-officio member of the Board of Trustees, is appointed by the department—Board of Education—but I think that there is some leverage there, so that there is some responsibility on the Commissioner of Education to the Governor's office. Also, the Commissioner of Agriculture, who is appointed by the Governor—and there are six alumni associated—members of the alumni—elected through the alumni association. The three presidents of the colleges and the Chancellor. Now, those four positions are elected by the Board of Trustees, so that there is overwhelming gubernatorial influence on the appointment of trustees. For that reason, we felt out of the twenty five that there would still be approximately eighteen trustees who would have some form of government—governor, or executive influence—in their appointment to the Board of Trustees. We felt it important also considering the cost of education is rising constantly. The state is only supporting approximately 27% of the cost of the University. The federal government, alumni and other various other private grants represent 33% of the funds going into the university. And the students themselves through tuition pay for 40% of the cost of the operation of the University and for these reasons, we felt that at least the students should have a voice in electing one trustee. I would hope that the Senate will go along with the committee report.

Senator Smith requested a roll call. Seconded by Senator Bossie.

The following senators voted yea: Poulsen, Smith, Gardner, Bradley, Bergeron, Saggiotes, Blaisdell, Trowbridge, Keeney, Hancock, Healy, Provost, Brown, Bossie, Fennelly, Downing, Preston, & Foley.

The following senators voted nay: Lamontagne, Monier, Rock and McLaughlin.

18 yeas 4 nays

Adopted. Ordered to a third reading.

SB 30, enabling the souhegan Regional Landfill District to

create a capital reserve fund. Ought to pass with amendment. Senator Monier for the committee.

Amendment to SB 30

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

enabling regional refuse disposal districts to create capital reserve funds.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

I Capital Reserve Funds. Amend RSA 53-B by inserting after section 8 the following new section:

53-B:8-a Capital Reserve Fund.

I. A regional refuse disposal district may establish a capital reserve fund for the orderly replacement of existing buildings and equipment which have been approved under RSA 53-B:7, IV. The district committee shall invest all monies in said fund in the same manner as capital reserve funds of towns are invested pursuant to the requirements of RSA 35:9. The members of said committee shall serve as the trustees of the capital reserve fund. The trustees of the fund shall post bond in such amount and in such form as the New Hampshire commissioner of revenue administration shall prescribe.

II. The proposed annual contributions to the capital reserve fund shall be set forth in the budget of the district, and the trustees shall annually within 3 months of the close of the fiscal year of the district file an account with the selectmen of the towns and the city council of the cities comprising the district setting forth the amounts held by the trustees, the manner in which they are invested, and the purposes for which they are held. The trustees may, from time to time, vote to expend any funds held by them for the replacement of existing buildings and equipment required by the district without further vote of the towns comprising the district.

2 Effective Date. This act shall take effect upon its passage.

Sen. MONIER: **SB 30** actually puts into law the only active groundfill district that is now operating. The question that came up before the committee requiring the amendment was primarily not with the enabling act which put this into affect, but rather with what would be done for controls on the trust monies. The questions brought forth—the amendment, the Representative from Amherst, and the Selectman who had raised some questions about tightening up how these trust funds were to be used. The kind of questions asked were simply, could they vote this, for example, without the town—could they have this? Who would be the trustees and so forth? The committee therefore held it for a day or so and asked the Legislative Services, with the Representative to tighten this up and the amendment as shown in your calendar, is merely to specify whether trustees—what they can do, who they will be and how they will invest—how they will spend their money. The landfill is the only one operating in this fashion. We virtually request that this bill be passed with the amendment.

Amendment adopted. Ordered to a third reading.

HB 134, permitting each town discretionary power to determine whether the trustees of trust funds publish a full or summary report in the annual town report. Ought to pass. Senator Brown for the committee.

Sen. BROWN: The bill—the way the present law reads, is unclear as to whether they should be reported in full-type or summary version. This bill allows—clarifies it so that the legislative body may authorize the trustees be ordered a full report or summary report.

Adopted. Ordered to a third reading.

HB 157, relative to determining the compensation to be allowed the collector of taxes. Ought to pass with amendment. Senator Brown for the committee.

Amendment to HB 157

Amend RSA 41:33 as inserted by section 1 of the bill by

striking out same and inserting in place thereof the following:

41:33 Compensation of Collectors. Each town, at the annual meeting, may determine the rate or amount of compensation to be allowed the collector of taxes for his services. Such compensation may be based upon statutory fees, a fixed compensation in lieu of statutory fees, a fixed compensation and statutory fees, or a fixed compensation and a portion of statutory fees. In the event that the collector of taxes is paid a compensation in lieu of statutory fees or a percentage of statutory fees, all remaining statutory fees shall be paid to the town treasurer at least monthly, or as directed by the selectmen, for the use of the town. Whenever the selectmen appoint the collector, such appointment shall be made prior to April 1 and they shall make a written contract with him in relation to his compensation.

Sen. BROWN: The amendment is on the next to last page, third line from the bottom. It should have been April 1st—a typographical error. Presently there are three ways in which a town collector can be paid within a town, by statutory fees, in lieu of statutory fees. The purpose being—incidentally, this applies only to town collectors who are on a compensation basis and the reason for the added wording is so that the town can adjust his salary at town meetings.

Sen. BOSSIE: Senator, a number of towns have elected to combine their tax collectors with the town clerks. Does this have any affect on the combined positions?

Sen. BROWN: I am not sure I can answer that question.

Sen. BOSSIE: Further question. So that we may clarify the legislative intent for the history of this bill, may I ask if you would agree with the following? Is it the intent of the Senate to provide—in no way will this bill change the system whereby a town that has adopted the system of having a tax collector and a town clerk being the same individual and have voted to: (a). Combine the job as salary, that they will in no way be affected by this bill?

Sen. BROWN: In relation to your first question, the combination of the two offices has not been brought up.

Amendment adopted. Ordered to a third reading.

HB 158, relative to the compensation of tax collectors. Without recommendation. Senator Brown for the committee.

Senator Brown moved that the words "ought to pass" be substituted for the words "without recommendation."

Adopted.

Sen. BROWN: What this bill does is raise the fees for collecting resident taxes from 30c to 50c for those tax collectors who are on a commission—part-time basis only—and there are only about 5% of them in the State.

Adopted. Ordered to a third reading.

HB 6, granting reciprocity to certain licensed cosmetologists from other jurisdictions, if that jurisdiction participates in national testing. Ought to pass with amendment. Senator McLaughlin for the committee.

Amendment to HB 6

Amend RSA 314:10, I (c) as inserted by section 1 of the bill by striking out said subparagraph and inserting in place thereof the following:

(c) Reciprocity for Certain Non-Residents. The board may license without examination any cosmetologist or manicurist or an instructor in either of said vocations who has been registered or licensed as such under the laws of another state which, in the opinion of the board, maintains a standard substantially equivalent to that of this state or which participates in a national testing program for cosmetologists approved by the board and in which cosmetologists and manicurists licensed in this state are given like recognition, upon payment of the fee herein provided.

Sen. McLAUGHLIN: In the amendment, all it is doing is including the word "instructors". It left out the word in the House and the House requested that we insert that word so it covers everybody. So instructors coming from

other states having the proper credentials will be accepted without anymore testing. That is all the amendment does at this time.

Amendment adopted. Ordered to a third reading.

HB 153, repealing RSA 262:43 pertaining to garage registration of out-of-state automobiles. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: This is an archaic law that was put into the RSA's in the 20's which required garages to register every out-of-state car that came in for service. It might have had a function then but it has no function at all now and we recommend it be taken from the law.

Adopted. Ordered to a third reading.

HB 130, relative to railroad warning signs on the state highway system. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: HB 130 is a very good bill. What it does—the responsibility being transferred from the towns and cities pertaining to signs on highways where railroad crossings are and this was requested by the Highway Department and their philosophy was that the railroads were here before the highway department and they should have the responsibility to take care of the signs.

Sen. BERGERON: Question. Senator, this says that the towns are now responsible?

Sen. FENNELLY: At the present time towns were—and the testimony in committee by the Highway Department people said that if the correct sign isn't up, it will be a fine of \$1 per day—the testimony in the committee hearing—and the Highway Department wants to take over this responsibility.

Sen. BERGERON: Just for clarification, in other words, it was the responsibility of the city and town to maintain these crossings and now it is being reverted back to the state?

Sen. FENNELLY: That is what the Highway Department wants.

Sen. SMITH: I just question this a little because it is new, Senator, isn't it, that the Highway Department wants to take

over the responsibility of a cost item, such as crossings but does this relieve—how many railroad crossings would be affected by this?

Sen. FENNELLY: It would be all the railroad crossings in the state. How many there are was not mentioned.

Sen. SMITH: Only those crossings, as I read it, that would be on a state road?

Sen. FENNELLY: Crossings on a state road only.

Sen. SMITH: If it were still on a town road, the town would then be responsible for the crossing?

Sen. FENNELLY: It would still be on the town except where a variance was and the roads had been changed. It would be the towns also.

Sen. SMITH: You are saying then, if the road which crosses the tracks is a town road, the town will continue to maintain that crossing?

Sen. FENNELLY: No, the state wants to take—I am sorry, the towns. This is just on state highways.

Sen. BERGERON: Question of Senator Fennelly, there is no appropriation to this?

Sen. FENNELLY: No, there isn't.

Sen. BERGERON: Wouldn't it be reasonable to assume that they will need an appropriation? Will they be back to us?

Sen. FENNELLY: I am sure that the Highway Department—the Public Works—has enough money to take care of this. I don't think it is that great a problem, otherwise.

Adopted. Ordered to a third reading.

HB 233, relative to restrictions on the use of landings for aircraft operated for compensation or hire. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: This bill requires all commercial landing areas to be registered with the area with the Commission. Landing areas using the—by charter or air taxi operations are exempt from registration requirements if it is acceptable by the safety standards. This bill also requires all landing areas that are water or ice areas to be registered with the State Aeronautics Commission.

Sen. BRADLEY: I am being a nit-picker, Senator, but if

you read for example, the first sentence: "for any person to operate or to authorize operation of an aircraft on or from any landing area of the state for compensation or hire unless said landing area is registered with the Commission with commercial operating privileges granted". If I remember my diagramming of sentences, I don't think that sentence has a subject or predicate. I kind of think I know what they are trying to say but they haven't said it.

Sen. LAMONTAGNE: I haven't a license to be a lawyer.

Sen. BRADLEY: I am just looking at the amendment. I don't see the problem taken care of. I would like to inquire, what would be the appropriate motion to allow this thing to be amended just so it is grammatical?

Senator Bradley moved to recommit to the committee on transportation.

Sen. BRADLEY: There are two or three of those sentences in there. I believe it should say "No person shall operate or authorize to operate unless" and for some reason the sentence starts "for any person to operate or authorize and go on and so forth", and I ask it to be recommitted so these sentences could be rewritten and I will rewrite it for the Committee.

Sen. HEALEY: An inquiry to Senator Bradley. Senator Bradley, I must say that I concur heartily with your observation on this meticulous section and I think it would only create chaos and possibly a whole lot of legal entanglements and I think perhaps you are discouraging business for the legal profession, but I do concur.

Sen. LAMONTAGNE: I rise in support of the motion. I would be very glad to research the recommendation made by the Senator.

Adopted.

HB 234, allowing the holder of motorcycle learner's permit to driver a motorcycle to and from a licensing examination. Ought to pass. Senator Healy for the committee.

Sen. HEALY: This bill does nothing more than authorize a motorcycle driver who is seeking an examination—in the

meantime he has a permit—it only gives him permission to travel to the examining center where he would undergo examination. The date would be on the permit and he is eligible anyway to drive on certain highways, but this would authorize him the use of any public thoroughfare to get to the examining center to undergo the examination for the license.

Adopted. Ordered to a third reading.

SB 53, relative to vanpooling. Ought to pass with amendment. Senator Poulsen for the committee.

(Senator Smith in the Chair)

Amendment to **SB 53**

Amend RSA 376:2, XII as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

XII. The term “vanpooling” means an arrangement for the transportation of persons to and from work on a nonprofit basis utilizing a motor vehicle manufactured primarily for use in transporting not less than 8 people and not more than 15 people, whose operator must be 18 years of age or older and must hold a vanpool operator’s permit. The director of motor vehicles shall issue such permits at no charge, and shall require such examination as to the operator’s qualifications as he may deem necessary.

Sen. POULSEN: The amendment adds a safety feature to the law that makes it mandatory that the driver of a van pool, which I can’t define until I get to the bill itself, has to have a special license that is now available to him from the Department of Safety and would also require that he be at least 18 years old. The function of the amendment is only to provide greater safety.

Sen. POULSEN: Mr. President, the bill itself allows a category to be known as “van pooling” to take care of the vans that are used to carry people back and forth to work, mostly on a cost-sharing or sometimes company-paid basis and it gets them out in a category of their own similar to mail carriers,

public works vehicle, and things like that. They are a new category, otherwise they would come under PUC legislation. This way they do not and they do have a safety feature. We urge passage of the bill.

Sen. LAMONTAGNE: Mr. President and members of the Senate. As you probably know, this bill has been recommitted back to the Committee on Transportation and the reason for it was that there was an amendment from the Committee—referring to a light commercial license which would have had a fee of \$12 but now the way the bill has been amended, there is no fee.

Amendment adopted. Ordered to a third reading.

ANNOUNCEMENTS

Senator Jacobson spoke under Rule 44.

Sen. JACOBSON: In recent weeks, I have been subjected to the most unusual form of political pressure by the Gerber-Paulian lobby. Never in my five terms in the Senate has there been as intense or as nasty an effort to put political screws on me. At issue is my appointment of three members to the Office Space Study Committee as provided by **RSA 1970, 29:4**. It began with a series of questions by Rod Paul demanding answers as to why one certain Senator had not been appointed. This was followed by two successive news items which argued that this particular Senator has pre-emption rights to the Committee. Now, the statute gives no rights of fiefdom or political primogeniture based on geographic propinquity. Next, the Gerber-Paulian lobby released a commentary, which followed the usual tradition of being both nasty and filled with errors. The commentary did admit that it was intentionally putting on political heat. Interspersed and following have been about a dozen tries on the part of Rod Paul to question me. Last Tuesday was a typical effort, where he asked me such questions as: “Did Senator So-and-So write you?”; or, “Did Senator This-and-That communicate his wishes in this matter?”; all of which indicate careful orchestration of political pressure. This was followed by a phone call from Mr. Gerber to my office, threatening that if I did not make the appointment according to his wishes, I would be zapped by an editorial the following day. The editorial came,

as promised, yesterday. It again accused me of playing games, but without a single word of documentation. Included is a pious denial by the Gerber-Paulian lobby of any political pressure, but I ask the members of the Senate to listen to the last sentence: "All of Concord would have cause to be outraged if the city's interests are not represented at that meeting in the person Sen. Hancock." Could you imagine 31,200 Concord citizens storming into Room 310 of the State House?

Among the standards I have always applied to any effort of lobbyists to persuade me, is that of the credibility of the lobbyist himself. Using that measure, what is especially distressing in all this frenzy of political pressure is the sorry record of inaccuracy in the editorials of Tom Gerber, (Rod Paul refuses any responsibility for these errors), during the years that I have been in the Senate. How can any person take seriously the views of one who rarely if ever checks the facts before he speaks or writes. I do not make this charge lightly, for there are scores of incidents which I can document. I speak now only of errors in fact, and not errors in judgment which are also plethora in number, but, of course, more difficult to document. However, so that the Senate will have some sampling, I will cite a few, which I happen to have on file.

On October 22, 1973, I wrote a letter of protest to the Monitor regarding a series of errors and misrepresentations which had appeared as editorials, Rod Paul commentaries and slanted news items which directly concerned me. Tom Gerber, in a letter of November 1, 1973, refused to publish my protest under the pretense that the Monitor publishes no letter over 400 words, a limit he repeated in a letter of November 21, 1973. Yet within the approximate time frame, letters of more than 400 words were actually published.

In any event, one of the key issues was an editorial wherein Mr. Gerber accused me of reading a speech of Charles Douglas III, and by that act, I could be defined as a "lackey of Thomson." In his letter of November 1, 1973, he further stated: "It also is a fact that you read, on the Senate floor, a statement handed to you by Charles G. Douglas III, counsel to the Governor. You acknowledged it publicly. You stood nose-to-nose with Rod Paul and told him so, and other Senators heard you. Your denial that such an episode ever took place only reduces your credibility on other matters. It justifies a public impression that you were a pawn on the Governor's chess board."

Now, I have never stood “nose-to-nose with Rod Paul”, and never has Mr. Gerber identified those Senators allegedly involved in this fanciful incident. But the real documentation comes from the Monitor news story itself, written by reporter Bill Corey, which reads: “Under stiff questioning by Nixon and Sen. Roger A. Smith, R-Concord, Jacobson said Douglas had given him the amendment and a speech ‘at five minutes to one,’ just before the session started. Jacobson did not use the speech.”

In the same letter, Mr. Gerber said, “. . .on the basis of your letter, we have undertaken the arduous process of reviewing the 1973 legislative session, and talking with your colleagues so that we may document this for you.” My response on November 3, 1973 was: “I note with interest your intention to research my 1973 legislative record and conducting of interviews of my twenty-three colleagues in the Senate. Though this so clearly smacks of a vicious witch hunt, especially as its avowed goal is to destroy my credibility, I, nonetheless, welcome this examination. In all fairness, I would only ask that you keep a full record, by tape if possible, of all questions asked and all responses given. Anything less would be a serious breach of ethics. For my part, I would request that you urge my fellow Senators to be candid and forthright in their responses.”

To this very moment I have heard absolutely nothing. I know not of a single Senator that was interviewed. Was Tom Gerber afraid of the facts or what? Also, I have never heard from Tom Gerber concerning my offer to debate him in a public place on his credibility as a newsman versus mine as a State Senator. I have heard nothing to date. The offer still stands.

Let me just cite a few more from my file. In another editorial he states that the federal Civil Service was established in 1875. It was not. The Pendleton Act of 1883 established the federal Civil Service system as a response to the Garfield assassination. Apparently, Mr. Gerber confused the Civil Rights Act of 1875 with Civil Service. In another editorial, Tom Gerber made very much political hay of a special election in Goffstown claiming that nearly 3500 persons or about 80% of the voters turned out. The facts are that about 1100 voters turned out, representing less than 40% of the voters. Again, in another editorial, Mr. Gerber stated that the “public defender system would terminate” with the end of the LAP

funds. That was not the case at all. I was sponsor of the Public Defender bill, and the funds came from the state operating budget and LAP acted only as the delivery system and not as the source for funds. In another editorial last spring, Mr. Gerber wrote that the Senate had failed to override the Doyon bill veto. The fact is that the Senate never had an opportunity to override since the veto was sustained in the House. In another editorial, Mr. Gerber claimed I had voiced the views of the Governor's office in the abortive Tessier affair in a Senate debate on May 23. The facts are that the debate took place on May 21; I did not speak; and I voted opposite to the Governor's view. Just a few days ago, a Gerber editorial claimed my Senate speech on state issues contained only two items; county government and U.N.H. As every Senator knows, I spoke to several other issues. Just the other day, quite by accident, my colleague, Professor Hilary Cleveland, told of reading one recent account in the Monitor which had approximately thirteen errors in it.

I could go and dig out many more to document, such as the editorial on snow on town bridges, which was designed to destroy the credibility of one candidate for the State Senate, but these would only serve to prolong the discussion. The real point is that Tom Gerber has a credibility gap large enough to drive a truck through. Given all this documentation and more, how then can I fairly rely on Tom Gerber's lobbying on behalf of a special interest?

There are, of course, further implications in this unusual effort to force the knuckling under of one Senator under the pain of the Monitor's threat of public harrassment. One can, for example, begin to suspect what are the real motives. Is the Senator in question so tied to the Monitor and what the special interest demanded, so as to cloud the total public interest? Again, is the Monitor suggesting that the 23 other Senators are incapable of pursuing fully the public interest without partiality? Is the Monitor suggesting that the Mayor, the City Manager and City Council are so inept that they are incapable of placing before the Office Space Study Committee, the concerns of the City of Concord? In this connection, the Senate should know that I have not received a single communication, oral or written, from the Mayor, the City Manager, or the members of the City Council of the City of Concord.

As far as I am concerned, I will not be bamboozled by Tom Gerber, Rod Paul, or any other person. I will make my deci-

sion in accordance with the well established practice of appointing those persons who have both basic responsibility and experience. Fundamentally, this has been to involve Senate members on the Finance Committee or the Capital Budget Committee, and special geographic propinquity has played only an accidental role. This appears to be a sound practice which ought to be continued. This I shall do in making my appointment.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

First and Second Reading and Referral

HB 684, an act providing for the regulation of business takeovers. To Finance.

SUSPENSION OF RULES

Senator Trowbridge moved that the rules of the senate be so far suspended as to dispense with a public hearing and notice in the journal and to allow HB 684 to be heard at the present time.

(Senate President in the chair)

Sen. TROWBRIDGE: In moving this suspension, I would like you to note that the House, which was reluctant to suspend their own rules, voted just now—271 to 74—to suspend the rules on HB 684 which had a hearing in the House today. The subject matter of HB 684 is coming up on an emergency basis for two reasons. I don't know how many of you are familiar with takeover bids but in 1968 the federal government passed the Williams Act which provided for federal regulation of takeovers. A takeover bid is where a company—you see them in the paper—a big offer to acquire, offering the shareholders of XYZ Corporation, let's say, \$32 per share, and the offerer is trying to buy up the controlling interest in the company. Before 1968, most of these things were done by proxy fights and in proxy fights there was a good deal of legislation—a good deal of notice to the shareholders and to what you call the "target" company—the target that is being taken over, as to what was going on. But since 1968, two

things have happened. One was the Williams Act, which only gives ten days for the process to take place. The second is the fact that the stock market is down in a way that a great many of the shares on the market, of public corporations, do not reflect their underlying net worth and so there has become a whole series of what they call "raider" corporations who are conglomerates who either have a good deal of assets, money, or whatever. Instead of trying to merge or acquire by exchange of shares, they simply get a lot of money collected from the investment banking world and within a ten-day period go and make a raid on a usually smaller but profitable corporation. This practice has gone and a lot of people have been involved. In New Hampshire we have seen the same thing happen and I note that in the Concord Monitor of this day is a story—not that we have any Monitors—credibility is awfully high at this moment—but by Tom Ferriter, which is a very good story, about the MPB Corporation in Keene and how it had its troubles last year. What happened and is happening now to another corporation in this state, which—1,100 people in my area right at this time—they can see on the stock market an unusual churning and buying up of shares. They know the activity is going on. It is reported on the Board. But they have no way of knowing who is doing it. There is no disclosure factor under the New York Stock Exchange Rules. A tender offer has to be out for ten days. The same thing in the Williams Act says that you must disclose everything ten days *after* you make the offer. So you can have a short period of ten days there when not everything is disclosed but the tender offer is being made to the shareholders. I was told today—I am not that much acquainted with this area—that what happens is that on a Friday afternoon at 4:30, the raider goes to the S.E.C. in Washington, files his tender offer and it comes out in the Wall Street Journal and the New York Times and other papers Monday morning, that the ten days are already three days running and the attempt, of course, is to make an attractive offer that looks attractive on its face. On some stock that is going at \$20 per share there is an offer of \$32. The shareholder receives this and knows nothing more except the fact that he is going to trade his \$20 for \$32. It could be a good deal for him and it could be a bad deal. But that is the problem. Because there was this growing problem, 23 states in the Union have passed laws which are very similar to HB 684. These would say—HB684 says that there be a 20-day disclo-

sure period of any corporation that is applying for more than 20% of any stock of New Hampshire corporations, and they have to file with the Insurance Commissioner of New Hampshire all disclosure as to who they are, what they intend to do with the company, whether there is any trust violation or any other problems. The bill is quite explicit as to what they have to file and gives adjunctive relief to a New Hampshire Corporation if this procedure is not followed. I suppose there will probably have to be general federal legislation in this area sometime because there is the possibility that federal regulation would supersede, but, as of now, 23 other states have seen it in their best interests to put in this kind of law in order that we do not leave our corporations unprotected. And unprotected they are because you have a nice little New Hampshire corporation that is going along employing 1,100 people, behaving itself, being a good responsible citizen in the Peterboro area, then you see Kayser-Rolf Company, or somebody else come bobbing in here, buy up their stock. Their people leave and who have you got left? We have seen enough of this. Now, in the MPB situation, they saw the handwriting on the wall and all of this activity in their stock, so they went and got what they call the "White Knight". The white knight—you have the Raider, the Target, and the White Knight—the White Knight is someone whom they would just as soon merge with rather than have the unknown take them over. And in that case, of course, they went to Wheelabrator-Frye and that merger was consummated on a friendly basis. Still and all, it is pretty tough to see people of small companies have to kind of merge in order to get away from the threat of being bought up. It really only applies to those firms which have publicly held stock, because, obviously, if it is closely held, nobody can buy the stock up without the knowledge of the stockholders who are the owners anyhow. So it normally applies to our companies who have some publicly traded stock. Now, tomorrow is Friday. The stock of this company churned on Monday and it could be that this Friday is going to be the day when they make the tender offer for this company. That is why Representative Morgan of Peterborough and myself are asking your indulgence for suspension of the rules on this bill because I hope that we will be able to have this bill signed into law by Friday. There was no opposition at the hearing. There really isn't any counter-vailing person who would object except for the New York firms who specialize in

raids. If there were a serious problem with the bill or some opposition, I could see how you would say "let's look at it longer", but I read it through rather carefully between this morning and now and I think it reads in a relatively straightforward shape because it does not prevent legitimate tender offers by legitimate corporations to someone they are trying to woo. In other words, they can still do it. Let's say you have XYZ Corporation and their management isn't doing that much and the other company thinks that it is really worth a lot more in the right hands. They call still make a tender offer. All they have to do is disclose who they are, what their balance sheet is—all of the details. Twenty days later the offer can be made to the shareholder legitimately and off the process goes. In fact, it has been said in an article which I read which is fascinating—a New Yorker magazine which I have a copy—it is a good story about these raiders. But, in fact, for the shareholder, the longer the period of time that the offer is outstanding, the longer the period of time is that another company, seeing what is going on, could come in and make a better offer to the shareholder. So it all benefits the shareholder of the New Hampshire corporations to have a longer period of time instead of being swept up and grabbed by the throat. Obviously, you have to remember that the stockmarket thing is part of the problem. If the shares of these companies were properly evaluated on the marketplace you wouldn't have this problem. But that is the case. A lot of companies are moving now to states which have a law similar to HB 684 in order to have some protection against the raiders. Delaware, where most of the corporations are incorporated, does not have such a law and they are losing corporations like flies. So, here we talk about being a state that wants to attract corporate enterprise. This is one way, having on the books an anti-take-over law that would be a protection for small firms in this state. So I will stop now. My motion is still to suspend the rules to let it get on second reading. I would be happy to answer any questions, but I really cannot emphasize too much how much this one firm is really anxious for relief from the Legislature and Governor at this time and the only reason it didn't come in sooner was it didn't get drafted. Look at the number—684.

Sen. McLAUGHLIN: A question of Senator Trowbridge. On the last page, the effective date, it takes effect 60 days

after it is passed. Do you want that changed to read "immediately"?

Sen. TROWBRIDGE: Thank you. "Immediately". It is a perfect question and the House already amended it to have it take effect upon passage so the bill that is before you contains that amendment.

Sen. BRADLEY: Your remarks were very persuasive to me and I really have no reason not to vote, but I always get nervous with something this large and I was trying to look through it quickly and haven't really had time. What I worry about in this kind of thing is, is the garden variety purchase and sale of companies—more of the kind that I deal with, if you will, in my practice—and all of a sudden something like this comes along and we find out the sale of "Joe's Equipment" to his neighbor, who has decided to buy stock rather than assets or something—for some particular reason—was void because we didn't register it with the Insurance Commissioner. Is there something in here that exempts. . . ?

Sen. TROWBRIDGE: On page 2, very easy. That is why I think this bill is excellent because it does it this way. At the bottom of page 2, it says "takeover bid does not include the offer through a broker, dealer, in the ordinary course of business without solicitation. . . ."—you can read it as well as I on page 3. It exempts anything of not more than 25 persons as shareholders. So that the normal "Joe's Garage" doesn't have 25 shareholders. Those exemptions, I think, take care of all the tings I could think of. I went through it rather carefully this morning. If it hadn't been for that, I would have to say probably the same thing you did, because I don't like rushing to the Senate to do this. None of us would willingly be doing this and I have the assurance of Mr. Morgan's committee and myself and anyone else involved that there were some amendments proposed and we didn't adopt them because we couldn't get them in time. But I think it is the commitment of the sponsors here to make sure that if something comes up, that we bring in a trailer bill that would make sure that no one was hurt by the bill. I think I answered Senator Bradley.

Sen. MONIER: I just rise in support of the motion. I share Senator Bradley's concern with—as a matter of fact, I have my own concern with those that come in one page, particularly on the last night. But the truth of the matter is, when I looked at this, I questioned a couple people and spoke to legal counsel to find out and my own advisor, who is aware of this

matter. The question and answer is very simply that this bill does need to be passed and passed very rapidly and this was an agreed-upon procedure which some of us had not been informed of as yet, but I would like to assure my colleague that I looked into it as well. I don't know if that means anything, but I strongly support the motion.

Sen. BOSSIE: I rise in opposition to the motion and I do it extremely reluctantly, I might add. This is a very complicated bill. It is an amendment to what is known as the "Blue Sky Laws of New Hampshire" as regards securities. I don't know if the Senate has individually read this document. It is confusing even to those of us who have been trained in the law. It is highly technical, it deals with financial matters that I think need a lot more study than what it would be. What I would hope—whenever I see these rush bills, it scares me, as it does a number of you, I know. What would happen if this legislature were not in session? These people would have to wait for a period of time. Now, I am not in the business of being a legislator to represent any special interest or group that is about to be taken over. I represent people. I think my people would want me to at least have the opportunity to have a hearing and read this over and discuss it with the various groups that would appear. I recommend strongly that we let this go through the regular committee study and if it should happen to be a committee of which I am a member—Energy and Consumer Affairs—I certainly would intend to schedule it right away and have it back to the Senate, hopefully, the first week that we were back. I can't imagine any corporation that plans for the future and is planning six months to a year ahead of time, could object to anything like that. I just don't know what this bill imports. I just don't know, and I really don't want to vote on it today.

Sen. TROWBRIDGE: Senator, you are aware that we are not going to be in session next week?

Sen. BOSSIE: Yes.

Sen. TROWBRIDGE: Are you further aware of the fact that a ten-day takeover bid would expire before we came back into session?

Sen. BOSSIE: Yes.

Sen. TROWBRIDGE: And you still feel you would not protect the New Hampshire company?

Sen. BOSSIE: Senator, let me state it this way: As I explained before, how do you know it is protecting the com-

pany? How do you know you are not protecting the Board of Directors rather than the people who own it? There is no way we know this. I don't even know your company. You want to tell us the details. This sort of business for a special company is really not the thing to do in a rush situation.

Sen. TROWBRIDGE: May I respond? I would be happy to give him the details. The details are that this is New Hampshire Ball Bearing Company. The ball bearing industry is really unique to New Hampshire. It was invented in New Hampshire. All that the two companies split way back in the 30's but still MPB and New Hampshire Ball Bearings are two of the biggest employers in our area. The New Hampshire Ball Bearing Company has an absolutely excellent reputation in our area and is home-grown and the people all work there and live there. They don't live in New York and come up—their management, their stockholders have come to me and Mr. Morgan and said "Hey, we want to run our own company and we don't know who these guys are who are buying up our stock". Now, as I said before, under this provision all it does is give a twenty-day waiting period when they file with the Commissioner, as to who they are and what they are up to. It could be the Arabs, for all I know. It could be anyone. So, I think, Senator Bossie, there are times in the Legislature, when you have to move and move fast when you find a situation, and if you had a situation in the Manchester area where a company was there, which was a good solid employer, and you came in and asked for this, I would go along with you and I have in the past, with everybody, and I think at this time I share the view that you would like to have more time, but you don't have more time. Now is the time to move please.

Sen. BOSSIE: As you know, the New Hampshire Ball Bearing is listed on the New York Exchange. Therefore, any offers of tender must comply with the rules and regulations of the Securities and Exchange Commission, who have these notices and these time-periods and everything else. What do you know about that company, having complied with any of the regulations of the S.E.C.? Now, as we know also, in Part II of this question, is that—isn't it true that federal regulation would normally control this sort of legislation rather than local—statewide regulation?

Sen. TROWBRIDGE: I would be happy to answer. No. 1—it is not that New Hampshire Ball Bearing has complied—they complied with every rule of the stock exchange but the

New York Stock Exchange only says, as far as I know in the rules, is that the tender offer has to be extended for ten days. In other words, you start day One—it has to be open for ten days. That ten-day period is the problem because in conjunction with the federal act—the Williams Act—full disclosure doesn't have to be made until the end of the ten-day period. There is a hole there—a gap—in the federal regulation. Senator Hart, before he died, had a bill in the U.S. Senate to control the situation and to take away this rapid ten-day period when people come in and “Zap”. What we are doing is saying that they will file here when they have acquired 5% of the stock. When they have acquired 5% of the stock, they have to—in other words, ahead of time—during this period of time before the tender offer. If they are buying up stock in New Hampshire corporations, they have to say who is doing it. They have to tell the Insurance Commissioner of New Hampshire who they are. So you don't get to this situation. I know that this is going to help the shareholders of this corporation. They can't be the loser.

Sen. SMITH: A question of Senator Bossie—two questions. If we found next week that the passage of this bill—that the bill had turned women into men and men into women, couldn't we do something about it upon the return to the Senate?

Sen. BOSSIE: I would feel very stupid if I voted for a bill that I hadn't read and if I had changed men into women. . . .

Sen. SMITH: A further question. Would you believe me if I told you that sometimes this process, which I hate to short-cut also, that a person like Idi Amin works a lot faster than we do sometimes?

Sen. BOSSIE: Notwithstanding that, Senator, I have seen and I read it a lot in the Wall Street Journal of these takeovers and I know a lot of times the Board of Directors, who are the managers of the corporations, spend thousands of dollars of their corporate money to fight these takeovers when it may be in the best interests of the stockholders. I don't know and I don't know who is trying to buy out—the ball bearing company. I don't own any stock in it either. The fact remains that we should have this process in a specially complicated bill of this nature. We should take our time to do it and I would appreciate it if I can have it within a ten-day period. I certainly would, but I am just not about to do it.

Sen. MONIER: A question of Senator Trowbridge:

Senator, would you indulge me for a moment on a couple of questions I think might help? One is, to the best of your knowledge, there is no one involved with this bill who holds any stock in the ball bearing company, is there?

Sen. TROWBRIDGE: I don't own stock in the ball bearing and I don't know if Mr. Morgan, who is sitting here—he shakes his head and says “no”. To the best of my knowledge, no one in the Legislature owns any shares.

Sen. MONIER: Would you agree with me that—in this particular case, while I am very reluctant, once again, for the same reasons as Senator Bradley expressed but not from any professional training—would you also agree with me that in this particular case we are really dealing with two majors—one of which was already established, already stopped in a sense by a merger with Wheelabrator-Frye, and the other on an occasion in which we are practically in the same instance through another means?

Sen. TROWBRIDGE: Exactly. It is not as if this was the only time this was happening in New Hampshire by any means.

Senator Blaisdell moved the previous question.

Adopted.

Motion to suspend: Senator Bossie requested a roll call.
Seconded by Senator Blaisdell.

The following senators voted yea: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Hancock, Provost, Brown, Downing, Preston and Foley.

The following senators voted nay: Keeney, Healy, Bossie and Fennelly.

18 yeas 4 nays

Adopted.

HB 684, an act providing for the regulation of business takeovers.

Senator Trowbridge moved that HB 684 ought to pass.

Adopted.

Adopted. Ordered to a third reading.

SUSPENSION OF RULES

Senator Downing moved that the rules of the senate be suspended so far as to allow that all bills ordered to a third reading be read a third time at the present time and that all titles be the same as adopted, and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

SB 103, specifying certain items for the state prison in the 1975 capital budget.

SB 74, relating to the regulation of polygraph examiners.

HB 214, providing a penalty for the false reporting of a motor vehicle accident.

HB 252, guaranteeing freedom of speech, right to criticism and disclosure for all state employees.

SB 71, providing for state assistance to persons suffering from hemophilia and making an appropriation therefor.

HB 181, allowing senior citizens to play beano for a nominal cash prize.

HB 17, permitting absentee voting in elections of the union school district in Concord.

HB 236, relative to the student trustee in the state university system.

SB 30, enabling regional refuse disposal districts to create capital reserve funds.

HB 134, permitting each town discretionary power to determine whether the trustees of trust funds publish a full or summary report in the annual town report.

HB 157, relative to determining the compensation to be allowed the collector of taxes.

HB 158, relative to the compensation of tax collectors.

HB 6, granting reciprocity to certain licensed cosmetologists from other jurisdictions, if that jurisdiction par-

ticipates in national testing.

HB 153, repealing RSA 262:43 pertaining to garage registration of out-of-state automobiles.

HB 130, relative to railroad warning signs on the state highway system.

HB 234, allowing the holder of motorcycle learner's permit to drive a motorcycle to and from a licensing examination.

SB 53, relative to vanpooling.

HB 684, an act providing for the regulation of business takeovers.

Adopted.

Senator Bradley moved reconsideration of HB 252.

Motion failed.

Senator Bergeron moved reconsideration of HB 236.

Motion failed.

Senator Healy spoke under Rule No. 44.

VACATE

Senator Rock moved to vacate CACR 13 from the Legislative Facilities Committee to the Committee on Rules.

Adopted.

ANNOUNCEMENTS

The Senate will meet on Tuesday, April 5 at 2:00 p.m.

SUSPENSION OF RULES

Senator Rock moved to suspend the rules of the senate so far as to allow committee hearings for the week of April 5th with only one day's notice in the calendar.

Adopted.

Recess.

Out of Recess.

ENROLLED BILLS REPORT

HB 236, relative to the student trustee in the state university system.

HB 684, providing for the regulation of business takeovers.

Senator Bergeron for the committee.

INTRODUCTION OF SENATE BILLS

Senator Saggiotes moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 128-137 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 128, to include licensed pastoral counselors in the category of services authorized under minimum mental illness coverage under major medical and non-major medical accident and health insurance. (Poulsen of Dist. 2; Jacobson of Dist. 7; Rep. Hildreth of Belknap Dist. 6—To Public Institutions)

SB 129, excluding certain persons from the definition of "employment" in the unemployment compensation law. (Smith of Dist. 3; Brown of Dist. 19—To Insurance)

SB 130, relative to transfers of classification in the retirement system. (Smith of Dist. 3—To Finance)

SB 131, relative to the sales of furnace and stove oil. (Bradley of Dist. 5—To Energy and Consumer Affairs)

SB 132, relative to the compensation and benefits of certain permanent policemen in case of death or disability. (Jacobson of Dist. 7—To Finance)

SB 133, providing that the state shall issue bonds for the state's share of 20 percent of the costs now paid by a municipality and reimbursed by state for water pollution projects and making an appropriation therefor. (Lamontagne of Dist. 1; Bossie of Dist. 20—To Finance)

SB 134, relative to reforestation of land. (Poulsen of Dist. 2;

Rep. Johnson of Cheshire Dist. 3—To Environment)

SB 135, relative to public forest lands. (Poulsen of Dist. 2; Rep. Johnson of Cheshire Dist. 3—To Environment)

SB 136, relative to the sale of land subject to the current use tax. (Poulsen of Dist. 2; Rep. Johnson of Cheshire Dist. 3—To Ways and Means)

SB 137, establishing casino gambling in New Hampshire and providing an appropriation therefor. (Healy of Dist. 16—To Ways and Means)

HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE

First and Second Reading and Referral

HB 375, relative to the merger of the American College of Life Underwriters with the American College. To Insurance.

HB 272, placing petrochemical plants under the authority of the energy facility evaluation committee. To Energy and Consumer Affairs.

HB 277, legalizing the Gilmore Pond dam in Jaffrey. To Environment.

HB 269, relative to the suspension and revocation of a person's license or operating privilege. To Judiciary.

HB 423, relative to penalties for filing a late return under the business profits tax. To Ways and Means.

FURTHER HOUSE MESSAGE HOUSE CONCURS

HB 100, relative to placing the Exeter police department under the control of the town manager.

Recess.

Out of Recess.

(Senator Sanborn in the chair)

HOUSE MESSAGE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 324, 3, 27, 202, 132, 159, 315, 267 shall be by this resolution read a first and second time by the

therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 324, relative to the taking of bobcat and fisher. To Recreation and Development.

HB 3, permitting the legislature to establish additional district courts. To Judiciary.

HB 27, establishing the Meredith district court. To Judiciary.

HB 202, establishing a Pittsfield judicial district and a Pittsfield district court. To Judiciary.

HB 132, prohibiting the transfer of property within 3 years of applying for town assistance. To Public Institutions.

HB 159, relative to equine infectious anemia. (New Title.) To Public Institutions.

HB 315, permitting trustees of trust funds of towns to hire or employ trust departments of banks to assist in the management and investment of trust fund resources. To Executive Departments.

HB 267, establishing a Bristol judicial district and a Bristol district court. To Judiciary.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 138-149 inclusive shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 138, relative to an alternative form of county government. (Bradley of Dist. 5—To Executive Departments, Municipal and County Government)

SB 139, making an appropriation for office space renovation

at the John O. Morton building. (Sanborn of Dist. 17—To Capital Budget)

SB 140, relative to the liability of landowners. (Smith of Dist. 3; Poulsen of Dist. 2; Preston of Dist. 23; Rep. Stimmell of Rockingham Dist. 1—To Judiciary)

SB 141, prohibiting the use of minors in pornographic acts, pictures, displays and the sale or custody of any such material in the state. (Preston of Dist. 23; Foley of Dist. 24; Rep. McIver of Grafton Dist. 11—To Judiciary)

SB 142, amending the definition of moped in the motor vehicle laws. (Smith of Dist. 3—To Transportation)

SB 143, relative to the qualifications of municipal planning board and conservation commission members and authorizing municipalities to reimburse members for certain educational expenses. (Downing of Dist. 22; Poulsen of Dist. 2—To Executive Departments, Municipal and County Government)

SB 144, amending the definition of a “dam” in the RSA chapter on dams and flowage. (Monier of Dist. 9—To Executive Departments, Municipal and County Government)

SB 145, relative to motor vehicle repair facilities. (Foley of Dist. 24; Blaisdell of Dist. 10; Rep. Perkins of Merrimack Dist. 18; Rep. Aller of Rockingham Dist. 13; Rep. Lucas of Sullivan Dist. 6; Rep. Found of Carroll Dist. 2; Rep. Hanson of Belknap Dist. 5; Rep. Rossley of Rockingham Dist. 23; Rep. O'Connor of Strafford Dist. 18—To Administrative Affairs)

SB 146, relative to the posting of a bond or certification of assets by every manufacturer of mobile homes to insure warranties. (Blaisdell of Dist. 10; Bossie of Dist. 20; Rep. Aller of Rockingham Dist. 13; Rep. Lucas of Sullivan Dist. 6; Rep. Found of Carroll Dist. 2; Rep. Hanson of Belknap Dist. 5; Rep. Matson of Cheshire Dist. 6—To Administrative Affairs)

SB 147, relative to posting a bond or certification of assets by manufacturers, importers or distributors of motor vehicles to insure warranties. (Blaisdell of Dist. 10; Rep. Aller of Rockingham Dist. 13; Rep. Lucas of Sullivan Dist. 6; Rep. Found of Carroll Dist. 2; Rep. Hanson of Belknap Dist. 5—To Administrative Affairs)

SB 148, continuing the public defender system in Merrimack and Hillsborough counties for 2 years and extending the same program to Rockingham county. (Downing of Dist. 22; Smith of Dist. 3—To Judiciary)

SB 149, protecting the welfare of certain adults by providing

protective services. (Lamontagne of Dist. 1—To Public Institutions)

ENROLLED BILLS REPORT

HB 100, relative to placing the Exeter police department under the control of the town manager.

HB 130, relative to railroad warning signs on the state highway system.

HB 134, permitting each town discretionary power to determine whether the trustees of trust funds publish a full or a summary report in the annual town report.

HB 153, repealing RSA 262:43 pertaining to garage registration of out-of-state automobiles.

HB 181, allowing senior citizens to play beano for a nominal cash prize.

HB 214, providing a penalty for the false reporting of a motor vehicle accident.

HB 234, allowing the holder of motorcycle learner's permit to drive a motorcycle to and from a licensing examination.

HB 252, guaranteeing freedom of speech, right of criticism and disclosure for all state employees.

HB 369, extending certain capital appropriations.

Sen. Lamontagne for the Committee.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE

First and Second Reading and Referral

HB 425, making a special appropriation for moving the department of safety from the John O. Morton building and other locations of the James H. Hayes safety building. Referred to the committee on finance.

Senator Monier moved to recall HB 236 from the Governor, relative to the student trustee in the state university system.

Adopted.

Senator Monier moved to lay HB 236 on the table.

Adopted.

Senator Preston moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 5 at 2:00 p.m.

Adopted.

Late Session

Senator Saggiotes moved to adjourn until Tuesday, April 5 at 2:00 p.m.

Adopted.

Tuesday, April 5

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh Father, as we bring ourselves into thy presence we hope that you will hear our prayer, as we watch and renew within ourselves the agony and passion of Holy Week.

We know that often times the spirit is willing but the flesh is weak yet may we through the lessons taught through Thy Son help us daily to increase in grace and in our dealings with others as we too walk with him along the way of sorrows.

May the Lord bless us and keep us.

Amen

Senator Poulsen led the Pledge of Allegiance.

Senator Gardner was excused due to illness.

Sen. DOWNING: Parliamentary inquiry. What is the status of a bill which has passed the Senate, a motion to reconsider

has been offered, and the motion was defeated. Can that bill be further considered?

Sen. JACOBSON: The Chair will state that if the motion to reconsider has been offered and that motion has been defeated, then the only parliamentary procedure available is a rescinding motion which would require two thirds of the Senate to vote on.

Sen. DOWNING: Further inquiry. The status of HB 236, it passed the Senate on the 24th, a motion to reconsider was defeated, the bill was enrolled and sent to the Governor without any further reconsideration or suspension of the rules. Would it be possible for the Senate in any way to regain possession of that bill?

Sen. JACOBSON: The Chair is under the understanding that HB 236 was recalled by the Senate last Thursday, I believe, and then laid on the table. In that instance, the bill has, in fact, a kind of new life.

Sen. DOWNING: Further inquiry. How do you relate that to the fact that the Senate had reconsidered its action whereby it had passed the bill, or there was a motion to reconsider, but that motion had been reconsidered. Does the Senate really have the prerogative of taking the action of recalling the bill once it has rejected reconsideration?

Sen. JACOBSON: The Chair would state that the two thirds vote comes to protect actions previously taken and this has had all of the legislative actions completed, including the required signatures and has gone to the Governor's desk. In this instance, as I stated earlier, it would have the character of a new life in the same sense that the Governor could veto the bill—that is, the content of it—and it could be almost immediately reintroduced as a new piece of legislation. At that moment in history, the bill is out of the hands of the Legislature and a recall is in effect to make it come alive again as though it were resurrected.

Sen. DOWNING: Further inquiry. And that, in spite of the fact we are dealing with the same bill number, is exactly the same instrument?

Sen. JACOBSON: If your reference is to the actions of the two thirds vote, that two thirds vote is only applicable as long as it is still in the possession of the Senate. There is, of course, another two thirds vote which is a negative motion which deals also with the subject matter so that the subject matter cannot be brought up within the Senate except by a two thirds

of all members—sixteen members—but this action is a totally completed action on HB 236 and then is brought alive again by a recall vote. The action is really no different from when the recall provisions exist in some states for the recalling of members of the Legislature or other elected officials. So if a recall takes place in fact a new election takes place.

Sen. DOWNING: Further inquiry. If members of this body felt technically that the bill could not be recalled without some sort of reconsideration of its previous action and some sort of vote by this body to do so other than just short of a recall motion, thereby, in fact meaning that this bill was actually in the possession of the Governor all this time and in fact is law now, if they wanted a further clarification of that, that would happen?

Sen. JACOBSON: The Chair has stated its position and it has a firm principle that if it can be shown otherwise than what he has just stated, he is willing to amend his position. I think the only other prospects that are open to you, other than to challenge the ruling of the Chair which, in effect is my statement, is to provide the evidence thereto which makes the action of last Thursday an improper one.

Sen. DOWNING: If the Senate wanted an opportunity to further explore the possibility that this bill has in fact become law, then the ideal situation would be to leave it on the table until it could seek some sort of legal counsel and advice, perhaps with the Attorney General's Office?

Sen. JACOBSON: At the present moment, under the ruling of the Chair, the bill is alive, the subject being taken off the table and subject to whatever further action the Senate wishes to do.

Sen. FOLEY: Parliamentary inquiry. Was it parliamentarily proper for a bill to be recalled without notifying each member of the Senate where we left on a recess with the understanding that nothing would be done in this chamber except to have bills referred to committees?

Sen. JACOBSON: The Chair was not a party to the action. It is my understanding that the action was done in order to preserve a veto which would require a two thirds vote override and a compromise has apparently been worked out by those members of the legislature, including those members in the Senate, whereby the bill will be signed. This is not unprecedented. There are, in fact, many precedents—the Dartmouth Medical Bill, I believe Senator Trowbridge was a part of

that—it was recalled by the Governor—recalled by the Senate in order to make the bill palatable so that it would not receive a veto and if given time, the Chair could find other instances of that sort. So the procedure has precedence. The question on notification is a question which is made in the sense that the Senate was in recess and as a technical matter, every Senator was, in fact, in recess and there was not a new session.

Sen. DOWNING: Is there any precedent for recalling the bill that has reconsideration denied?

Sen. JACOBSON: The Chair does not know that at the moment. He would have to check the precedent's reconsideration—the denial of—is a common practice within this Legislative body and in order to prevent further actions as long as the bill is in the hands of the Senate, the question of whether reconsideration has taken place or not, in the view of the Chair, is not pertinent to the question of recall.

Sen. MONIER: A brief inquiry to follow that up. Is it not correct that reconsideration is an action taken on the previous action or on the action taken on that particular time?

Sen. JACOBSON: Reconsideration is always on a previous question but not necessarily the immediate question.

Sen. LAMONTAGNE: Inquiry. Where is the bill at the present time?

Sen. JACOBSON: The Chair will state that the bill is on the table and in the hands of the Senate.

Sen. SMITH: If the Senate had not recalled the bill on Thursday, would it not, in fact, be the point today where we would be facing a definite veto of that bill?

Sen. JACOBSON: The Chair cannot speculate on the Governor's action but the Chair would state that two options would be in effect—three options would be in effect.

1. The Governor would have signed the bill by this time.

2. The Governor would have allowed it to pass without his or,

3. He would have vetoed the bill.

Sen. TROWBRIDGE: Am I not correct that the motion to recall does not affect in any way the reconsideration that we took before it came back? It is merely saying "it doesn't go to the Governor"? Is that not the only affect of recall?

Sen. JACOBSON: The Chair will state that in his view, the recall is to bring back the bill and to make it alive again and the Senate can then take whatever action it wishes to take.

The Chair would also state that if the Governor had vetoed the bill, that the Senate could bring the bill up as a brand new measure today.

Sen. TROWBRIDGE: What I am asking is, that when it comes back for call, it lies—having been reconsidered and after reconsideration being denied it—so that you could not bring it up again—it is lying there in limbo. Until you can get that reconsideration removed from it.

Sen. JACOBSON: No. The process of reconsideration has expired once it has left the Senate. The normal pattern is that the bill is never seen again. The process of reconsideration exists while the bill is originally in the hands of the Senate so that until it leaves the Senate, reconsideration is possible under the rules as delineated. For example, if we had reconsideration of a Senate bill and reconsideration is posted in the normal time according to the rules, then it does not leave the Senate and go to the House. Once it has been read into the House, the reconsideration has no further affect.

Sen. TROWBRIDGE: Yes, but what I am asking here—and I think this is where Senator Downing is, that even though we have the power to recall anything because it is our motion that sends it to the Governor, our motion again to bring it back—lies here, not as if it were an original bill but one which has been brought up, voted on for reconsideration and reconsideration has lost. It has all that hanging around it but it is not a new bill, starting out new. No way that could be. Never has that been.

Sen. JACOBSON: The Chair will state that in his experiences with the bills that have been recalled, the question of reconsideration has not been at issue.

Sen. SMITH: Senator, if we have a bill which is a Senate bill, which passes this body, is reconsidered, the motion for reconsideration is lost, it then goes to the House and if the House amends the bill and sends it back to us for concurrence, the question of reconsideration does not then come up, does it?

Sen. PRESTON: I was one of those few Senators here an issue in that circumstance and that circumstance is similar to the circumstance of reall.

Sen. PRESTON: I was one of those few senators here Thursday after having consulted with sponsors of that bill in question, thinking we were acting in their best interests. With all due respect of your opinion, Senator, if I was in doubt, as

one of the few Senators sitting here Thursday, would you be kind enough, at the request of some of those who are concerned, instruct the Clerk to get further clarification on this issue from the Secretary of State or the Attorney General's office as to the exact status of the bill at this time?

Sen. JACOBSON: The Chair will state that he will seek out the documented material and consult with those persons who have parliamentary experience and report. If it be agreeable to the Senate that the bill lie on the table until such time, or unless you want—the Senate—to go into recess and a check can be made on the documents.

Sen. DOWNING: For one, I would be very grateful if the Chair would take the time to consult with others and finalize the decision as to laying the bill on the table.

Sen. MONIER: I don't know whether it is a point of information or inquiry—I am the one who made the motion to recall the bill. I think it ought to show on the record that I—incidentally, I have no objections for it staying on the table until you make whatever inquiries are requested—I hope there is no indication, however, that there was any kind of nonsense being pulled because there were only a few senators here, and I would ask the Chair for a verification—is a routine action—and I had a particular case in point in this case, in which consultation was made with all members of the Senate that were present I might add, to the affect that we were stopping, in a sense, the clock on this bill as we stop the clock here in the Senate many times for the express purpose of allowing other information to be brought forth if desired. In short, the recall was here for the Senate to take action where if the Senate had not taken that action, the bill would have taken some action period. Automatically, that was the purpose for it. That is an inquiry and I hope it is understood by everyone. The second part is, if there is any question about the indefinite postponement with regard to this particular bill, I think that is a question for the Chair to answer and I would be very happy to urge that we do leave it on the table until it is responded to, which once again is illustrative that we were acting in good faith with respect to stopping the clock.

Sen. SMITH: I was not here on Thursday but I was consulted in regards to this and my view was that the bill should be brought back due to the fact of a potential veto and therefore, if I had been here, I would have voted to recall. I was prepared today to take the bill from the table but due to the

questions that have been raised, I would hope that the Chair would investigate the standing of this bill and get an opinion on it and I certainly plan also to leave it on the table.

Sen. BOSSIE: I rise with regard to the nonsense that the Senator referred to. I do not think that the action that was taken last Thursday is nonsense. I think it's beyond the scope and power of those seven Senators who sat here and voted—and if I had been here I would have asked for a quorum. That would have taken care of that and I disagree with Senator Smith too. This is a very serious thing. A recall of a bill that passed a roll call vote of 18 to 4 and I don't recall in the four years that I have been here have I ever delegated any authority to a small minority of people and Senators to recall a bill that had passed by that majority. I don't mind if the purpose is to recess to allow bills to come into the Senate, and I stand to be corrected, but I don't recall ever giving authority to the President of this Senate to do anything but to accept bills because if it is that case, then I would like to suggest—and I will move at the appropriate time that we don't recess in the future. We adjourn. And that way we won't have these problems. Obviously, this is a convenience—not to us, we were elected to the Senate—this is a convenience to the Governor. Now, if he is so interested in our bills, let him run for the Senate. Do you think for one moment that we can intervene and interfere with the agenda on the Governor's Council? It just doesn't work. They would tell you to butt out but at the same time, when the Judiciary is involved in a number of these things, they come over here and tell us what they want. Can you imagine for one instance we approach a judge at the Supreme or Superior Court and say we are interested in a certain case? Frankly, I would be disbarred but you would be told to get out of here and never come back. Now, I just think this sort of thing is just an evil thing. It should not have occurred. Not only was I not notified but I would have run out of here on my knees to ask for a quorum. And if I had been notified, I would have been and that bill would not have been recalled. The issue is not really whether this should be recalled or whether the Governor is going to veto it or not. That is not the issue. The issue is principle. We have principle, and that is why we are here as Senators and I just object to what took place last Thursday and will object strenuously in the future and if that is what is going to happen. I would ask in the future that we adjourn rather than suspend.

Sen. BLAISDELL: Senator Bossie, I happened to be one of the Senators of the Seven. This will be a landmark decision. Would you agree with me if a sponsor of the bill, like Representative Lessard, came in and told me he had a problem and he came to a compromise and just wanted to bring the bill back? Would you give him that courtesy, Senator?

Sen. BOSSIE: Let me put it this way. If I had introduced a bill into this Senate and had gone before a hearing and had been heard by the Senate and it went over to the House and was heard by the House Committee, then was heard by the full House, I would have said, "Look, Representative, you have made a mistake. This bill is where it is at and you have to stand on that bill, whether it is good or bad". I think that is wrong.

Sen. BLAISDELL: Since you have been here, have you ever compromised your position? This is the art of compromise in this particular political arena.

Sen. BOSSIE: I never compromise my position to have the Governor tell me "I am going to veto your bill", because I would tell him where to go. I would say, "Governor, if you want to veto it, go ahead". It has been through the process and where were you when I needed you? That is what the thing is. That is why we have all these hearings and that is the purpose. Sure, we compromise on bills.

Sen. BLAISDELL: I don't believe I mentioned the Governor. I am not privileged to that room any more than you are, but I did compromise with Representative Lessard, with whom I happened to sit on many committees and feel very confident that what he was telling me was right and I just wondered if you wouldn't have considered what his actions were when he came into the Senate that day.

Sen. BOSSIE: Frankly, I would have asked for a quorum call. I told Mr. Lessard today that I thought he was wrong in this particular instance and we all have a lot to learn, and I do too. I think he was wrong. The point is, Senator, we don't do things when there are only seven Senators present. I don't blame any one of you in particular. I just think that the Governor needed this and some Senator thought he needed this and they thought we needed it. Well, I didn't—I can think for myself.

Sen. BLAISDELL: Would you believe that we had quite a discussion here and that this was brought up? Senator Monier made a point and I did and the Senate Clerk, asking if we were

setting a new precedent, and this was just routine, to call this bill. None of this really—we had our reservations but we felt we were doing a courtesy for a member of the House—not the Governor. He had nothing to do with this.

Sen. BOSSIE: Frankly, we were on recess. I don't think any of you had a right to take my duties and obligations away from me, while I was on recess, because I would have run up here as fast as I could to stop this from taking place.

Sen. BROWN: A question of Senator Downing. You were here last Thursday, and if I remember correctly, you were consulted and your opinion was asked for in relation to the action taken.

Sen. DOWNING: Yes, it was, and I remember going into your office and advising you. I gave you a copy of the agreement between the sponsor of the bill and the Governor's office and I suggested that if we were to contact—I suggested that the Senate Clerk, in particular, call each member of the Senate. We got an affirmative answer from two thirds of the Senate without any objections. I had no problems with it myself and felt that the Senate ought to be considered. But as you know, I was not here when the action was taken on the floor because we had a pre-arranged time at four o'clock.

Sen. BROWN: In relation to your visit to me in my office, did you not, at that time, say that you had discussed it with some other members? I know you did not mention whom, but that you had no objections to the actions that we proposed?

Sen. DOWNING: I told you I had discussed it with some members of the Senate and that the agreement was that we could get two thirds of the Senate in support of it without any strong objections. As you know, we are in a very sensitive area and I don't—I assumed that was done and I would have asked if I had been there.

Sen. BROWN: Would you believe me, Senator, that I cannot at this time recall you stating in any way anything about a two thirds—or contacting a two thirds vote or anything of that nature. I don't recall it.

Sen. DOWNING: Yes, I believe you.

Sen. BERGERON: (Question of Senator Brown) Could you tell me for my edification if the Senators were in your office or the Senate Clerk's office or any one individually polled the Senators—tried to reach them—and if so, how many?

Sen. BROWN: To my knowledge, every Senator that was in the State House at that time was polled. I understand there

were telephone calls to some. I can't vouch for this, but I did hear that.

Sen. BERGERON: If I read you correctly, you can't tell me who was and who wasn't contacted? Would you believe that I was in the State House up until about 1:30 that day and no one from either the Senate President or the Senate Vice President or the Senate Clerk's office approached me as to what my feeling was?

Sen. BROWN: I can't honestly say that I heard about it before 1:30. Maybe it was before 1:30. I don't really know, but those who were present here in this Chamber at that time—I know each and everyone of them were asked about their opinion of it.

Sen. BERGERON: How many people was that?

Sen. BROWN: I think seven.

Sen. BERGERON: Seven people were asked?

Sen. BROWN: At least seven.

Sen. BLAISDELL: Senator Brown, can you tell me what time this meeting was set up in the Senate? As you understand, I was in Capital Budget all morning long and was told about 1:00 or 1:30 that there was a meeting of the Senate at 3:00 o'clock?

Sen. BROWN: That was correct.

Sen. BLAISDELL: When did you tell me it was going to be 4:00 o'clock?

Sen. BROWN: Shortly before 3:00, because Senator Downing came to me and said that he had to leave the building and would not be back until 4:00. He asked me if I would postpone it until 4:00. I said I would. I polled the Senators at that time to change the time from 3:00 to 4:00 and if I hadn't done so, we would not have had any Senators here because Senator Rock had to be in Durham at 4:00; Senator Preston was on his way out the door; and I can go on.

Sen. BLAISDELL: Well, you really just answered it. It is true that you asked all of us. Didn't we ask you at that time to call Senator Downing's office and find out where he was and try to get him back?

Sen. BROWN: Yes, we did. His office was called—not by me—but he was—the person who called said that Senator Downing was out of the building and we could not get in touch with him.

Sen. SAGGIOTES: I was one of the Senators present Thursday. I talked with the sponsor of the bill. I thought that

the seven Senators present here did the responsible thing at that particular time. We were told that there was a possibility—or a probability—of a definite veto on the part of the Governor. The sponsor told us that there was a compromise that had been reached via an amendment. The only possible route that we could take was to recall the bill and make this amendment possible at some future date. Now, I feel that we took the responsible action. However, there are probably some Senators here today who feel that we did not take the responsible action and I feel that it is their responsibility today to make the proper motion and take the proper action.

Sen. ROCK: I think the Senate is well aware of my position in this incident—both this session and the last session. I was here Thursday and, in good faith, a bi-partisan effort—representing both sides of this issue—the Senate took an action. The Chair has ruled that the action was proper and until someone proves otherwise, or until that is determined, then all the rhetoric that we have heard, critical of the seven Senators who represented extremely divergent views on this issue, truly is wasted time. The Chair has ruled and there has been no challenge of that ruling. There has been an offer to lay it on the table. The Senate has other business to transact and I, for one, am ready to move on with the other business and let's get on with what we are here to do today.

Sen. BRADLEY: Parliamentary inquiry of the Chair. Has the Chair ruled that the subject matter that was transacted is within the guidelines and understanding of what was permissible to be acted upon? I repeat, I understand the Chair has ruled that a recall motion may be made, notwithstanding the fact that there had been a reconsideration, but has the Chair also ruled or considered the issue as to whether or not the action taken—the subject matter—was within the permissible scope of action, given the rules of the Senate and the understanding of the Senate for the types of action we could take last week?

Sen. JACOBSON: The Chair has stated that he was not present at the action and there has been a general agreement that no other actions than enrolled bills reports—not requiring amendments—introduction of House bills, Senate bills, would take place within the session. However, one does not make rules that are laid in concrete. After all, as Jesus once said, "The Sabbath was made for man and not man for the Sab-

bath''. This was to grant every human being some elasticity.

Sen. SMITH: Senator Bossie, I was much impressed with your speech on principle, and I wonder if you are familiar with a quotation of Speaker Rayburn, a great Democrat leader of our country, once made about principle? Are you familiar with that?

Sen. BOSSIE: No.

Sen. SMITH: Would you believe that he once said that in politics, there are those occasions when people on occasions must rise above principle?

Sen. MONIER: And the only reason for doing this is to correct Senator Bossie's record. Senator Bossie's record is that I made the statement that this is a bunch of nonsense. I think my statement, the record will show, is that some people have stated that it was nonsense—I did not think it was nonsense. That is #1. #2, Senator Bossie, would you respond to just a simple question? Were you in your office that afternoon?

Sen. BOSSIE: I presume I was.

Sen. MONIER: I think you were and I think if you check with your secretary, you will find that there was a phone call made from me because I was trying to contact you.

Sen. BOSSIE: Are we through with this? I would like to make a motion about something separate.

Sen. JACOBSON: The Chair is ready to proceed with the business of the day.

VACATE

Sen. Bossie moved that **SB 120** be vacated from the committee on the Judiciary to the committee on Executive Departments and that **SB 145**, **SB 146**, **SB 147** be vacated from the committee on Administrative Affairs to the committee on Energy and Consumer Affairs. Basically, what these are—**SB 120**, which was referred to the Judiciary—**SB 145**, **SB 146**, **SB 147**—from Administrative Affairs to Consumer Affairs. **SB 120**—this is a bill sponsored by me at the request of the Attorney General's office concerning investigators in their office. It has nothing to do with the Judiciary. It is just to put them on a full-time status. So we thought Administrative Affairs would be a more proper committee. **SB 145** was referred to Administrative Affairs. This and the other two bills were drafted by the Consumer Protection Division of the Attorney General's

office and these are matters that I would rather discuss with them and have requested the Legislative Services office to draft and these are really in line with our Consumer Affairs outline of our Committee and we respectfully request that these be vacated so that they would come over to us. **SB 145** is with regard to motor vehicle repair facilities. **SB 146** is a bond on the manufacturers of mobile homes. **SB 147** is a bond on manufacturers of motor vehicles. They are consumer affairs bills and we feel we would like them to be altogether in our committee because these are in line with other bills that we are considering now.

Sen. BRADLEY: Senator Bossie, didn't you intend to have the **SB 120** go to Executive Departments—Senator Monier's committee?

Sen. BOSSIE: Excuse me, Executive Departments. Thank you. Executive Departments rather than Consumer Affairs.

Adopted.

INTRODUCTION OF SENATE BILLS

First and Second Reading and Referral

SB 150, an act providing an appeal procedure for persons denied a license to operate a motor vehicle for failure to pass a visual acuity examination. (Blaisdell of Dist. 10—to Judiciary)

HOUSE MESSAGE

HOUSE CONCURS

AN ACT

HB 157, relative to determining the compensation to be allowed the collector of taxes.

AN ACT

HB 369, extending certain capital appropriations.

FURTHER HOUSE MESSAGE

HOUSE NONCONCURRENCE

AN ACT

SB 11, relative to a short form mortgage or deed of trust.

FURTHER HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 320, 321, 347, 394, 395, 569, 312, 348, 400, 352, 361, 99, 282, 370, 381, 190, 435 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 320, relative to secured loaning authority of cooperative banks, building and loan associations and savings and loan associations. To Banks.

HB 321, relative to applications for mortgage loans from cooperative banks, building and loan associations and savings and loan associations. To Banks.

HB 347, relative to the maximum time period for the amortization of loans. To Banks.

HB 394, relative to the use of funds of credit unions. To Banks.

HB 395, relative to retirement accounts for credit unions. To Banks.

HB 569, amending the charter of Coe-Brown Northwood academy. To Education.

HB 312, relative to the commission on human rights. To Administrative Affairs.

HB 348, relative to the eligibility of jurors to serve again. To Judiciary.

HB 400, relative to the place and time of detention of arrestees. To Judiciary.

HB 352, relative to the recording of agreements resolving boundary disputes in those registries recording on microfilm. To Judiciary.

HB 361, relative to the penalty provisions for violations of statutes and rules pertaining to aeronautics. To Transportation.

HB 99, relative to the board of accountancy and allowing accountants to advertise. To Executive Departments.

HB 282, placing a consumer on the commission of pharmacy and practical chemistry. To Energy and Consumer Affairs.

HB 370, relative to salaries of full-time justices of district courts. To Judiciary.

HB 381, relative to the unfair sales act. To Energy and Consumer Affairs.

HB 190, relative to the administrative procedures act. To Administrative Affairs.

HB 435, lowering the age at which the minimum hourly wage applies. To Administrative Affairs.

ENROLLED BILLS AMENDMENTS

HB 158, relative to the compensation of tax collectors. Senator Lamontagne for the Committee.

Enrolled Amendment to HB 158

Amend section 1 of the bill by striking out lines 1 and 2 and inserting in place thereof the following:

1 Compensation of Tax Collector. Amend RSA 72:5-b (supp) as inserted by 1971, 476:4 as amended by striking out in line 4 the words "thirty cents" and inserting in place

Sen. LAMONTAGNE: This amendment makes it a change in the amending clause so that it conforms to the required style.

Adopted.

FURTHER ENROLLED BILLS REPORT

HB 157, relative to determining the compensation to be allowed the collector of taxes.

HB 17, permitting absentee voting in elections of the union school district in Concord.

HB 210, making it illegal to take trout less than 6 inches in length. Senator Lamontagne for the committee.

COMMITTEE REPORTS

HB 82, relative to the surnames of spouses after marriage. Inexpedient to Legislate. Senator Healy for the committee.

Senator Foley moved that HB 82 be made a special order for Thursday, April 7, at 1:01 p.m.

Adopted.

HB 251, relative to the police standards and training council. Ought to pass. Senator Brown for the committee.

Senator Brown moved that HB 251 be recommitted.

Adopted.

HB 271, relative to the proper display of the state and national flags. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This bill was requested by the Department of Education. The reason being that in bad weather when both the State and U.S. flags are not flying in front of the school, they have had complaints that the flags are discarded or thrown away—discarded into a closet for the day and they felt this was not the way to treat the flags. So rather than put them in the closet, as has been done in the past in some cases, they propose that it be set on a staff in the principle place of assembly in the school only that day.

Adopted. Ordered to a third reading.

SB 108, requiring the state board of education to establish state-wide educational standards which must be met before a student may be passed to the next higher grade. Split committee report—inexpedient to legislate; Ought to pass with amendment. Senator Blaisdell for the committee. Senator Sanborn for the committee.

Sen. Sanborn moved “ought to pass”.

Amendment to **SB 108**

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Effective Date. This act shall take effect July 1, 1978.

Sen. SANBORN: The amendment posed by the committee was actually proposed by the Commissioner of Education. It is that this bill is changing the effective date from 60 days after passage to July 1, 1978. It is allowing the Department of Education and the State Board of Education sufficient time to finish up their work which they are proceeding with right now in establishing a minimum standard for children in schools to pass from grade to grade. Basically, the bill in itself just carries out and makes mandatory work which the State Board of Education is doing at this time and requiring a minimum standard before a student passes from one grade to the next. In effect, this will do two things. It requires this minimum standard to pass from grade to grade and insuring that our students, as they pass can meet some type of standard in the basics of education. The second thing this bill will do—for instance, we will say a child comes into the first, second, or third grade and is not able to pass the test—the minimum standard test. Then, I would anticipate that further examination would be made of this child and some learning disability may be found, which does not happen now until much later in school, that the child may have some handicap. Maybe it is hearing, or maybe it is eyesight. But there may be certain learning disabilities that this child has and by early-on examination of this child we could find the discrepancy in the child's ability to learn and can make a better provision to provide the learning and teaching ability to provide this child with the education he so richly deserves.

Sen. BLAISDELL: I am opposing this bill—not because I am opposed to school testing programs as standards; not because I am opposed to the high school diploma meaning something in terms of academic achievement—I am opposed to it because I frankly think that there is a potential for this bill to create more problems than it solves. I think that I can safely say that all of us here agree with the concept that all children should have a given amount of knowledge by the time they graduate. There is, however, more to knowledge than just

being able to pass the tests or fulfill the sets of standards. The administrative problems associated with the testing programs of this type would be many. The tests would be difficult to administer and even greater problems would be that of who would be doing the administering. Would the State be responsible for the administration of this test or would the individual school system? And who would pay for these tests? The results show no specific provisions in this bill calling for a regular updating of the tests and standards. It is conceivable that the initial tests would remain in use for many years beyond their usefulness. Another problem would be the setting up of proper norms for the tests. The norms as set up by a company making the test and accurate norms that take approximately ten years to devise, by which time the tests are already out of date. Under this bill, what do you do with the auditory learner, who through a learning disability cannot handle written material. Do you force him to take a written achievement test? He may very well fail. Or, at greater expense, set up another test for this type of student. What happens if an intelligent 14 year old has the knowledge of the 11th grade norms? Does that mean that his parents, if they tried hard enough to take him and have him placed into the 12th grade? Right now, the Department of Education has a committee composed of members of the Department, school professionals and parents. The Committee is devising standards to be met at the conclusion of the 4th grade and conclusion of the 8th grade. This committee is due to report back in July and I think it is right and proper that we give them a chance to report and I think we can learn something from New York State too. The New York State Regent's exam fell into disrepute because studies found that teachers were teaching the tests rather than to what was educationally important and I don't think we want that to happen here. I firmly believe, and I hope you do too, that standards should be set by the local school board and teachers and I think the most important point, if the teachers set the standards and the children fall far below it, then the teachers, I think, are clearly accountable. I believe we should give the local districts a chance and I think our state board too. A couple weeks ago—three weeks ago—I think the Governor's commission met—at least most of them were there—and they heard loud and clear from most of the people in the State of New Hampshire "don't interfere with the running of our schools unless you give us the money to do it", and I think

that is a very important point. And I ask that this bill be inexpedient to legislate.

Sen. SANBORN: Senator, if I remember correctly, did the Commissioner of Education inform the committee on this bill?

Sen. BLAISDELL: Yes, he did.

Sen. SANBORN: Did Commissioner Brunelle oppose this bill?

Sen. BLAISDELL: No, he did not. He said the Department can support the bill.

Sen. SANBORN: You stated that the Commission and the Department of Education was establishing examinations now for the 4th and 8th grade levels, am I correct?

Sen. SANBORN: If we have a child with a reading disability—maybe it is eyesight, maybe hearing—maybe any type of disability. In other words, with only an examination coming at the 4th grade, he will miss for four years, knowing that this child has a disability, and in actuality, he has missed four years of education because of the inability to read, is that right?

Sen. BLAISDELL: I will have to disagree with you because most districts have learning disability teachers in their systems. They are doing it now. I know my district is anyway, in the City of Keene, and the surrounding area. Some of them have learning disability teachers. So I disagree with what you just said.

Sen. SANBORN: I am not disagreeing that most districts now have learning disability teachers and reading disability teachers, classified, I believe as Reading Remedial Teachers. But how do they find out that there was a—how did they find out that there was a handicapped child in reading that needed remedial reading prior to the 4th grade?

Sen. BLAISDELL: The way we have for many years past. The teacher in the classroom.

Sen. SANBORN: In other words, it is basically what **SB 108** is asking for, that the teachers give an examination to meet a minimum requirement and find this out early. Isn't that true?

Sen. BLAISDELL: I disagree. If that is the intent of the bill, I think I may answer it. I think that what you are doing is taking the burden off the teacher and sending it back to the State control—the State Board of Education—where the teacher can tell you to drop dead and they had nothing to do with it and I don't think that is what we want to do in this

State. I think it takes the accountability away from the teacher and I think this is what this bill does.

Sen. SANBORN: You are talking about accountability. I fail to see your understanding, where are we taking it away from the teacher.

Sen. BLAISDELL: If you are mandating it from the State Board, like you are doing it, doesn't it give them king of an out, Senator?

Sen. SANBORN: No, I wouldn't say that. They are only requiring that they meet a certain minimum standard, and if we are going to have reading at say, in Colebrook at a 4th grade level equal to that in Salem—who is going to establish the standards between Salem and Colebrook?

Sen. BLAISDELL: Senator, I guess this is the reason that I have called the bill inexpedient to legislate and you have it for "ought to pass". We have a difference of opinion on this and I respect your view as much as you respect mine.

Sen. SANBORN: But don't you feel, Senator, if we have a child in Colebrook or Berlin, that that child should have an equal—as equal a chance to go to the Boston University as the child, say, in Concord, Manchester, or Salem?

Sen. BLAISDELL: Yes. I don't believe, Senator, that has anything to do with it, but I agree with you, yes.

Sen. SANBORN: Then if they should have that equal chance but are not getting an equal education, why, their standards could be different than Colebrook or Berlin—than Manchester, Concord, and Salem—how are they going to make it?

Sen. TROWBRIDGE: (Of Senator Sanborn) Following up on your last question, would you not think that it would be more to the point rather than by putting on uniform standards, to pass a bill that would give uniform funding of education so that Colebrook and Salem might be the same? Wouldn't that be a good idea?

Sen. SANBORN: It sounds like an excellent idea, except for one thing. I still don't think, and I never will believe, that dollars alone educate the child.

Sen. MONIER: I was going to start with Senator Blaisdell, but I will start with Senator Sanborn, if I may. I had to ask this question. Are you well aware, with reflection on the last question asked of you by Senator Trowbridge, that there has never been a case proven that additional funding provides additional education achievement?

Sen. SANBORN: That is absolutely right and, in fact, I believe that many of our professional educators are now slowly coming around to that belief and it isn't dollars alone that educate the child. It is the ability of the teachers.

Sen. MONIER: Would you believe that the only study that is done on this has shown that the only direct relationship between education achievement and any other factors is simply the economic life from which the child comes from? May I ask Senator Blaisdell a question? You may have thought I wasn't listening to you, Senator Blaisdell, I knew our truce would end very shortly but I was and did listen and I would like to ask you a question with regard to the remedial reading and other teachers assisting, have you read or do you have any analysis to show that they were the result of the system rather than the result of the child?

Sen. BLAISDELL: No.

Sen. MONIER: Would you believe there are studies to show that the increase in remedial assistance, whether it be reading, is primarily the result of the system?

Sen. BLAISDELL: I guess at first hand, Senator, I would have to say this since I have a granddaughter who has a problem and it was the teacher who brought the problem to my son and daughter-in-law. Maybe I have to say that the teacher has had some input into it too.

Sen. MONIER: I am willing to concede and would like to ask you to reconsider the question. There are certainly physical handicaps and mental handicaps in which you meet this type of thing. That isn't the question I asked. I asked you are you aware that the increase in remedial assistance in the schools is not directly related to the direct increase of needy children in terms of mental but rather in terms of the system. Are you aware of that?

Sen. MONIER: You should be, and I will provide studies for you.

Sen. BLAISDELL: I will be glad to read them.

Sen. PRESTON: I would like to speak in opposition to this bill. I have discussed this with several people and received a letter last night. The New Hampshire School Board Association held their monthly meeting at the Executive Board and voted unanimously to oppose **SB 108** and I would just like that for the record.

Sen. SMITH: A parliamentary inquiry. What is the motion on the floor?

Sen. JACOBSON: The motion is on the amendment as proposed by a portion of the Committee.

Sen. SMITH: I rise in opposition to **SB 108** for a number of reasons. First of all, the cost of administering this test is estimated to cost between \$500,000 and \$750,000 per year and who is to pay for that? Senator Sanborn stated in an answer to a question that the teachers were the ones who should be upgraded, so that they can more adequately teach our children in our schools and I agree with that and that is exactly what the State of New Hampshire is doing, through the certification and recertification program. I don't think that we want to be similar to New York state. Over the weekend I have talked with both students and former teachers in the New York school system and the poorer the teacher, the longer time the teachers spend reviewing—going over the review book in the last half of the year with the students to brush up the students so they would pass the exam. In fact, what those teachers did was to stop teaching and to prepare students for an examination. I don't think you, Mr. President, or any member of the Senate thinks that prepping people for exams is a function—the full function—of a teacher. Presently schools are giving standard achievement tests throughout the state. This is not to pass or fail a student, but rather for the benefit of the Administration and the members of the School Board so that they may have an opportunity to know and to judge how well their school and their teachers are doing in preparing the students for life in this society. I am concerned about a State Exam. If a state exam is established, is this not the opening—particularly in the area of social studies—for the framing up of what must be taught in the area of social studies? What is required to pass an exam? Does this not give guidance and direction to what kind of social studies should be taught? If passed, the State rather than the local schools would determine, particularly in areas of values, what values are to be—rather than leaving it to the school district and to the schools. I would also state that our students in the schools are not cord wood. You cannot stack them up and measure them off the way you do wood and pass them from one grade to another. What is the criteria for passing a student from one class to another? First of all, it is academic ability. Secondly, the social maturity of that child and if a child is to be held back, what reason, and the reason basically is, will it benefit the child? The total child. Not some level passed by an examination. And who

determines whether a child should stay back or not? Basically, it is a consensus of a group of people, first of all, the teacher in the classroom, the principal of the school, the guidance counselor, if there is one, and finally and most importantly—the parent. And it can work a great hardship on a child to be held back because sometimes the parents are more embarrassed than are the children and for these reasons, Mr. President, I would rise in opposition to the bill. I think learning disabilities can be determined in many ways and probably more adequately than by giving some structured exam. I think the schools and the State Department of Education—the members of the Senate are concerned deeply about giving children—promoting and giving them, and developing their greatest potential but I do not think that by giving a regimented exam is the way to do it. In conclusion, I would like to read one paragraph from a letter which I received from the New Hampshire School Boards Association.

”**SB 108** would require all students to meet state-wide standards before passing to the next grade. If legislators subscribe to the philosophy that schools should help each individual child reach his or her optimum at each stage of development, **SB 108** would be overwhelmingly defeated.

The curriculum in basic subjects at any grade level assumes mastery by children with average ability.

A child with special learning problems needs to have the curriculum tailored to his or her individual needs.

Decisions on achievement criteria are best made at the local level where staff and school boards have an understanding of children’s needs.”

And finally from testimony given by Mr. McKenna, who is representing the New Hampshire School Administrators, “the grade structure in our schools is a tool for organizing the educational enterprise. It is not a sacred structure that must be maintained at all costs. In fact, most educators believe that students should be assisted in learning at a rate consistent with the abilities without regard to the graded structure. Many students are non-graded, or organized in a multi-level, multi-age fashion. Unless safeguards can be built into the system, the establishment of minimal standards can and often does result in mediocrity. Before we realize it, teachers will gear their instructions towards these minimal standards rather than setting higher order expectations for performance prohibiting

a standard form from moving through the grades unless rigid standards are satisfied, it can have serious social and psychological consequences. The learning curve is not smooth and always up or down. Students can and do learn in spurts. By passing a student along who may be behind expected grade level performances at a particular point in time may mean that his or her next interval of learning may catch up or even exceed expected performance. We have all heard of the late bloomers. If educational standards are to be established, let local districts establish their own based upon an assessment of the local educational needs of their pupils." And I think every Senator here has probably known children who have dubbed around in one class and the next year have done this spurting, which is not taken into consideration by passage of such legislation.

Sen. MONIER: A question of Senator Smith. Would you believe that when we started this bill I was avowed that I was not going to say too much about it. I was just going to vote for its passage but I would like you to know that I have to ask you a couple of questions because of some of the statements you have made. The last one, and I will pick up the last one first, if I may, is a comment that you reiterated and I believe gave to the professional—some professional organization, school association or something, with respect to the fact that this passage from one class to another was a progressive learning and a series of it. And you seemed to imply from your statement—or their's and I wasn't sure if you were quoting or not—that equating success and learning is done by passing. Certainly, you as a parent or a person who has himself gone through a school system, recognizes that a failure can also be a learning experience.

Sen. SMITH: I can also understand that a failure, if the kid has just failed a period, it can be—But I do think, Senator, that there are many times when a student is put back or held back, that it can work very much to the disadvantage of that child. I think that each individual child is an individual to be considered. I don't think you can make generalities, which your question implied.

Sen. MONIER: As a word of explanation, failure in this case did not mean "not passing" because I don't equate success or failure with going from one grade to another but the second question I would like to ask, would you admit that there is a possibility that if standard tests were used, regard-

less of this bill or any other, that achievement can be measured as one progresses, regardless of whether it be within a class, or whether it be from class to class, or be it at the end of all classes?

Sen. SMITH: I think that kind of a test can do more harm than good.

Sen. MONIER: Would you admit or would you agree that such—any such kind of test of this nature is used consistently for example, on entrance into college or entrance into many other areas?

Sen. SMITH: I recognize the fact that they are used in many instances, such as getting into college. I think this is a very different thing than testing each kid each year to see if he should pass or fail, and entrances to college examinations are now becoming less and less important to admittance to college than they used to be. Admittance to college now is based upon many other things, including personal interviews, other interests, abilities, rather than as a test—or whatever they give them.

Sen. MONIER: You forgot the ability to pay. Let me ask you—and I am pursuing this in a way—I would like to stay with it if I could—regardless where the tests are given, you seem to want to differentiate between an end product test—whether it be an entrance into college or whether it be an aptitude test or some other form, regardless of what they are. They are established. You seem to want to differentiate between those and the intermediate steps, which would show progress towards a desired end result. Is that what you are saying?

Sen. SMITH: No, I am not saying that at all. I am saying I think it is fine that in the schools today, achievement tests are given to see—not how an individual does, but how a grade is doing or how a group of children are doing in a school in relation to national averages or some other standard. I think it is unfortunate and would be very unfortunate to give some sort of examination, which on one day in the year when the kid—his mother and father may have yelled at him before he left, raised cane with him about something—he goes down there in a bad frame of mind and fouls up the test. To me, this is just ridiculous. Whereas, a teacher has worked with the child throughout the year—teachers know whether a child is progressing or whether he isn't. They know his maturity—his social maturity—and I think a group conference determining

how—whether a student should go on or go back, or stay back a year—that kind of a conference and a working out on an individual basis is much more important than some exam that is handed down from above.

Sen. MONIER: Would you also be willing to concede that such examinations measure the capability of the class as a whole by simply distinguishing those who are faster learners from those who are slower learners or those who may not have learned or those and perhaps even the teachers, the affect as to whether they are teaching them within the same scope as a group, whether they be individuals or not?

Sen. SMITH: I am not sure I follow your question. I didn't do very well in school.

Sen. MONIER: Maybe I can suggest an achievement test that might help. The comment I am trying to make, Senator—and I would like to get your comment on it—is that you are looking upon these as being a road block to a student. Would you not also admit that such achievements, whether they be tested or otherwise, are also a measurement of capability of both the student, the teacher, and the level at which they are progressing?

Sen. SMITH: Not in the way this bill was recommended. I think that the tests that are presently being given, give an indication as to how the student is doing, but it is not the final determination of whether he passes or fails the grade. It also gives, under the present circumstance, a very excellent guide to school administrators and school boards and to the people in the districts to know what their schools are doing and whether they are meeting their obligations in education to help the kids in those districts to compete on a national level.

Senator Preston moved the previous question.

Adopted.

Senator Sanborn requested a roll call. Seconded by Senator Blaisdell.

The following Senators voted yea: Lamontagne, Poulsen, Smith, Bradley, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Healy, Sanborn, Provost, Brown, Bossie, Fennelly, and Foley.

The following senators voted nay: Bergeron, Downing, and Preston.

19 yeas 3 nays

Amendment adopted.

Senator Smith moved that **SB 108** be indefinitely postponed.

Senator Sanborn requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Smith, Bradley, Bergeron, Blaisdell, Trowbridge, Healy, Brown, Bossie, Fennelly, Downing, Preston, and Foley.

The following senators voted nay: Lamontagne, Poulsen, Saggiotes, Monier, Rock, McLaughlin, Keeney, Hancock, Sanborn, Provost.

12 yeas 10 nays

Adopted.

SB 109, relative to apportionment of school moneys. Inexpedient to legislate. Senator Smith for the committee.

Sen. SMITH: This bill was brought to our committee and acted upon as "inexpedient to legislate" last week. What the bill does is to amend Chapter 194:9, which says that "every district situated in two or more towns shall be entitled to its just proportion of school taxes—income from school funds—according to the value of property taxable therein". What it adds to it is the number of pupils therein. Now, the only kind of schools that we have in this state that cover more than one town—school district—are cooperative schools. This section is not in the cooperative school law but in another section of the law and it was felt that this might have jeopardy—or place in jeopardy—the cooperative school law which says that you can have different types of a formula for the input of money into the school districts. This would make it mandatory, it may make it mandatory because this is a newer piece of legislation that, in any revision of the laws relative to cooperative

schools, that they would have to be based on some formula; either based on taxable property or number of pupils therein. It makes it mandatory. Now, there are within the state presently five cooperative schools—districts which base their revenue on one or the other. The cooperative apportionment formula for the districts of Derry and Haverhill—both are based solely on taxable evaluation. However, in the Dresden School District, Sanborn Regional and the Wilton-Limbro Districts, it is based solely on average daily membership. I think it was felt by the committee that that choice should be left to the local districts as to how they can best fund their schools. Therefore, we hope that the Senate will go along with the report of inexpediency to legislate.

Adopted.

SB 110, relative to possession of account books and making of payments by a school district treasurer. Split committee report—inexpedient to legislate; ought to pass. Senator Blaisdell for the committee. Senator Sanborn for the committee.

Senator Sanborn moved “ought to pass.”

Sen. SANBORN: Basically, what this bill does is, as we have heard around these legislative halls so long, is “home rule”. The only opposition to this bill appeared from some school district—rather, union—business managers who could see that part of their lucrative job was being lost. The only thing this bill does is say that the elected school district treasurer maintains his books and his records. Now, it is recognized that some school districts encompass a large area, such as Manchester, and nothing in this bill in any way, shape, form, or manner denies the right of the school district treasurer of Manchester from obtaining the necessary bookkeepers, auditors, and so forth, to help him maintain those books. It just says he is responsible for them and they will remain in the City of Manchester. For a small town where the school district treasurer has only one or two schools and not such a large amount of money is used—only, say, half a million dollars or so—this school district treasurer—the only time they see the books and try to maintain the balance where the checks and so forth are all written at the Union level is when the cancelled checks are returned and the poor treasurer spends the entire

rest of the month trying to get his or her accounts to satisfy what the Union has done. As I say, the only thing this bill requires is that those books and accounts of the school district treasurer remain in the town and the only way they can be removed from the town or their origin is by court order. That is all the bill does.

Senator Smith moved to indefinitely postpone **SB 110**.

Sen. SMITH: Mr. President, I rise in opposition to the bill in favor of a motion to indefinitely postpone. I think the whole bill hinges on the words "maintain" the books. Now, if you have a group of towns in an area school, or a group of towns which are not related to any kind of cooperative, you have a situation there which lies outside of the superintendent of school's office. Therefor, you have a district or town school district treasurer and if you will look at 197:23A, you will find a long paragraph dealing with the duties and responsibilities of the treasurer. These duties and responsibilities cannot be taken over by the superintendent's office or by the supervisory union. But what has happened is that schools have grown and have really become big business where you will have in a supervisory union a \$6,000,000 budget. You can no longer rely on the small town treasurer to do the full load of books. He will do his books that he keeps by statute, but there are complex issues in the maintenance of books in a school district and most supervisory officers hire accountants and bookkeepers to do this work and it becomes a rather large full-time operation. In my supervisory union in Plymouth, there are seven towns and there are three full-time bookkeepers and they are overworked, so I have been told, though I don't always want to believe that. These people are responsible for keeping the books, particularly on such things as federal grants, which are very complex. We have school district treasurers and they have to sign every check and approve every check, as does the school board, and they have to sign the checks. The supervisory union cannot make a payment without authorization from the school board and with the signature of the school district treasurer. Presently, in my area, we are paying treasurers of school districts—and I think this is true for most members of the Senate and their districts, that most of the treasurers are being paid somewhere between \$125 per year and \$400 per year. They cannot afford to give

the time or the expertise which is required, particularly with the number of federal grants which have to be reported on and the records which now have to be kept. And finally, one of the things that a supervisory union can't do is to apply for federal funding for programs within the school. The federal government will not consider grants under \$5,000. Many times school districts want a smaller amount of money. Therefore, by having the supervisory union apply for it and pool the grant within the school districts within that supervisory union, they can afford to do this. I hope the Senate will go along with indefinite postponement.

Sen. SANBORN: You gave some interesting things but it seems you covered mostly the area-type schools, and so forth. Is that true or am I wrong? Or did I hear you wrong?

Sen. SMITH: I am covering both area schools, of which there are a great number throughout the state—I did have a list of the area schools which I would be pleased to check off—Milford, Exeter, Keene, Newport, Claremont, Lebanon, Portsmouth, Hollis, Pembroke, Somersworth, Berlin, Goffstown, Hillsborough, Deering, Northumberland, Rochester, Colebrook, Farmington, Keene, and Gilford. Now, these area schools are one part of it, but they are also part of the individual school districts. It doesn't make much difference to the City of Manchester, where the school district is co-terminus with the city and where the city is going to be there and live there, but in small towns, this could make—in a group of small towns in a supervisory union—this could be a very definite hardship.

Sen. SANBORN: We realize that area schools and so forth have a different proposition relative to funding. Where you very nearly neatly killed me on 108—but we aren't talking about area schools here, are we?

Sen. SMITH: I'm not talking about area schools. I was using that as an example, I am talking about area schools where there is not one supervisory school district which is co-terminus with a supervisory union. Most of the supervisory unions in the state are not co-terminus or at the same district as the supervisory union. There are many towns which lie outside a cooperative school or an area school, even, which may still be within the supervisory union.

Sen. SANBORN: And following that same line, there are a good many schools—districts—that are attached to school unions which do not lie in the cooperative area of regional

school districts. Am I right or wrong?

Sen. SMITH: They lie within the supervisory union.

Sen. SANBORN: But in the supervisory union but not within the area of cooperative—regional districts.

Sen. SMITH: That is exactly the point I want to make—that those supervisory unions—the passage of this bill would therefor be disallowed from maintaining the books in the supervisory union office which might be in another town and therefor, then all of this would have to go back to the treasurer of that school district in another town and he is being paid a small amount of money and therefore, you would start to build up another professional staff, which I don't think you and I would agree on, Senator. I don't think we need more staffs.

Sen. SANBORN: This, Senator, believe it or not, is precisely why this bill is here, because it is looking at the districts within unions that are not cooperative regional areas, et cetera. But do you still believe me when I say that these school unions are charging professional monies in the thousands of dollars to maintain books for school districts when it should not actually be costing that amount of money?

Sen. SMITH: I don't agree with you. I would just like to elaborate on that. I don't agree with you, because what would happen—instead of the town paying \$125 per year to a treasurer, they would have to hire somebody and pay them a substantial salary, whereas, if you bring all of this bookkeeping into the centralized area, you can do this much more effectively and efficiently.

Sen. SANBORN: A very simple question. Have you ever been a school district treasurer?

Sen. SMITH: I have never been a school district treasurer but I have talked to many of them, Senator.

Sen. SANBORN: Would you believe that I have been one?

Sen. SMITH: I can believe that.

Sen. SANBORN: And would you believe further that I don't consider anywhere near the jobs which you have enumerated?

Sen. SMITH: I think, Senator, that the job has become, and is becoming, more and more complex and I think that this bill does not change the authority of the local school treasurer at all. What it does, is to say that he must maintain all of the books and all of the records and I don't think this can be done in this day and age when schools are expanding and have expanded to the extent that they have and I think it is much more

economical and effective and more efficient to have it done at the supervisory union level—and cheaper.

Sen. SANBORN: Are you familiar with the way these school district budgets are set up, as required by the State of New Hampshire?

Sen. SMITH: I am.

Sen. SANBORN: Have you ever served on a town budget committee and are you familiar with how the line items are brought in relative to school budgets?

Sen. SMITH: I know how school budgets are brought in.

Sen. SANBORN: If each item of expenditure is so easily noted by budget committees, et cetera, throughout the state, what is so complicated about the school treasurer maintaining the books?

Sen. SMITH: I don't think it is the maintaining of the books itself. I think the problem is the reporting that has to be done at the present time. Reports have to be made on federal grants and federal programs that are in the school districts. Reports have to be made to state and it is becoming a complex issue and question which the part-time—very part-time at \$125 per year—treasurer—should not be asked, and cannot really cope with, and I think the question is—more important is the responsibility to the electorate and I think that by having more effective bookkeeping we can be more responsible to the electorate than trying to do it on a very part-time basis, which we can no longer do.

Sen. SANBORN: Senator, you talk about the reports that the business manager who is—to save their jobs before the committee and such complicated reports, as you state, but did they say anything about—is it the school board that is responsible for those reports and not the school treasurer?

Sen. SMITH: I have checked with the supervisory union in my area and every check is written in the supervisory union office and written against a billing that is approved by the school board. It is then sent—the checks are then sent to the school board for the membership of the school board to sign and for the treasurer to sign and they can disapprove it at anytime.

Sen. SANBORN: That was a very noble answer. Senator; however, that wasn't my question. I said "relative to these reports that you enumerated that have to go out to the state level, to the national level, et cetera". Am I right or wrong, but

don't those have to come from the school board and not the treasurer?

Sen. SMITH: Yes, and again, school boards are part-time and they have not the time to fully develop and work up these reports.

Senator Bergeron moved the previous question.

Adopted.

Senator Sanborn requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Smith, Bradley, Bergeron, Blaisdell, Trowbridge, Keeney, Hancock, Preston, and Foley.

The following senators voted nay: Lamontagne, Poulsen, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie, Fennelly, Downing.

9 yeas 12 nays

Motion to indefinitely postpone failed.

Ought to pass. Adopted. Ordered to a third reading.

(Senators Foley, Smith, Trowbridge, Preston, Hancock, Bergeron, Blaisdell voted in opposition)

HB 119, authorizing the position of hearing officer in the department of education. Ought to pass with amendment. Senator Sanborn for the committee.

Amendment to HB 119

Amend RSA 186:10-a as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

186:10a Hearing Officer. The state board, upon nomination of the commissioner, shall appoint a qualified hearing officer to preside over such preliminary hearings as may be

held prior to formal hearings held by the state board, and to render decisions which shall be binding until the state board's formal hearings are held.

Amendment adopted. Ordered to third reading.

HB 133, prohibiting self-sustaining departments of municipal government from exceeding appropriations voted for their departments without complying with the provisions of RSA 32:10-a. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. SANBORN: Mr. President, the amendment only strikes from the bill as presently written by striking out after "186:10A" and the second line, it reads now, "impartial" and changes that to read "qualify" and strikes out in the next line, the word "conferences". So it now reads, "the state board, upon nomination of the Commissioner, shall appoint a qualified hearing officer to preside over such preliminary hearings as may be held prior to formal hearings by the state board and to render decisions that will be binding until the state board's formal hearing is held". Mr. President, the state board requested that the word be changed from "impartial" to "qualified" and these changes—this allows the state board to appoint to the Commissioner qualified people and we already have two on board, so this does not make any new positions in the state to hold pre-hearings on any questions that are coming up before the board, anticipating that this will save a great deal of time and perhaps, after the qualified officer has listened to the debates—pro and con—that have been brought up, that his decision may be satisfactory to both sides of the question and readily finished at that time and relieve the state board from having to hold so many formal hearings, which take up a good deal of their time. We urge the passage of this bill.

Adopted.

SB 96, relative to emergency expenditures under the municipal budget law. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to **SB 96**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

establishing an optional procedure to make emergency expenditures under the municipal budget law.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Approval of Emergency Expenditures. Amend RSA 32 by inserting after section 10-a the following new section:

32:10-b—Emergencies, Optional Procedure.

I. In this section “emergency” means any condition that requires an expenditure of money in excess of an appropriation which condition could not reasonably have been foreseen at the annual meeting of a town, school district or village district.

II. When an emergency arises during the year which makes it necessary to expend money in excess of an appropriation which may result in an over expenditure of the total amount appropriated, for all purposes, at the meeting or when no appropriation has been made, the selectmen, village district commissioners or school board upon application to the budget committee, may be given authority to make such expenditure. The school board, selectmen or village district commissioners shall be required to prove that a definite emergency exists before an application shall be approved by the budget committee. A 2/3 vote of approval of the budget committee shall be required to approve any such emergency funding. The chairman of the budget committee shall forward to the department of revenue administration, or the state board of education in the case of an expenditure for school purposes, a copy of each emergency supplemental budget as approved by the budget committee.

III. A town desiring to adopt the provisions of this section may have the question placed on the warrant for a town meeting at which town officers are elected in the manner provided in RSA 39:3. Such question shall be presented for voter approval in the following manner:

(a) For a town which has an official ballot for the election of town officers, the officer who prepares the ballot shall place the question on such official ballot as it appears in subparagraph (c).

(b) For a town which does not have an official ballot for the election of town officers, the clerk shall prepare a ballot in the form as provided in subparagraph (c).

(c) The wording on the ballot of any referendum for the adoption of this section shall be as follows: "Shall we adopt the provisions of RSA 32:10-b to permit emergency funding upon approval of 2/3 of the municipal budget committee?"

(d) Upon the ballot containing the question shall be printed the word "Yes" with a square near it at the right hand of the question; and immediately below the word "Yes" shall be printed the word "No" with a square near it at the right hand of the question. The voter desiring to vote upon the question shall make a cross in the square of his choice. If no cross is made in a square beside the question, the ballot shall not be counted on the question.

IV. Upon approval of the question by a majority of those voting on the question, the provisions of RSA 32:10-b shall be deemed to have been adopted and shall be applicable in place of RSA 32:10-a.

V. If after adoption of the provisions of RSA 32:10-b any town desires to rescind its adoption, it may do so by referendum pursuant to paragraphs I or II, by changing in paragraph I, (c) the word "adopt" to read "rescind" in the question on the referendum.

2 Effective Date. This act shall take effect 60 days after its passage.

Sen. POULSEN: Mr. President, this bill prohibits self-sustaining units of town water department, light departments, and so forth, from conceding their budgets. It is in the opinion of the committee—not necessarily—they only exceed their budgets when it is necessary or when there are breakdowns in pipelines and emergency catastrophe-type emergencies. This would harness them into the procedures of the municipal budget act and I think it would be unnecessarily binding to them. We think—I think it should not be the law.

Sen. POULSEN: Mr. President, the amendment is on page 10 of the calendar and the amendment is the bill at this point. The amendment strikes out all of the original bill and replaces

it with itself. All it does is give towns under the budget act an alternative procedure that they can follow to exceed their budgets instead of using the old formula of half the budget committee voting to exceed it and then getting approval from either Mr. LaPoint or the Department of Education. Under this bill, they could do it with a two thirds majority by going direct without having to check in with the Department of Taxation or the Department of Education. But in towns that don't want to follow that procedure, and there are apparently some who are afraid their budget committee would never get together to that extent, we have made the bill so that it is optional to a town. The town can vote to use this procedure or not. Likewise, they can vote to rescind this procedure if they once do accept it and do not want to continue it. That is the whole bill. The amendment is the bill.

Amendment adopted. Ordered to third reading.

HB 106, relative to appointment of medical referees by county commissioners. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President, I rise today and ask the indulgence the Senate for about a two-minute preview of what went on with this bill. Because we have had so many activities with it, I want to make certain that you understand why the "ought to pass" is here. When it first was brought in I think a week and a half ago or two weeks ago, there was "without recommendation" and I made the motion that it "ought to pass" so we could have a debate on the floor with it. Maybe that will recall it to your attention. Questions were raised about this in terms of the debate in which I don't think I defended my position one way or another because I made the motion, but the major question was raised at that time as to whether there was and is now on the books a means by which a medical referee can be appointed and for that reason, because Senator Hancock—if I am not mistaken—made the statement that there wasn't anybody questioning her directly but there was a question and I asked that it be recommitted for the express purpose of trying to get a ruling on that with respect to that particular issue. Therefore, we recommitted it the next day. I went to Legislative Services and asked them to do a research audit on it and to provide us with information

and immediately, when I had that in hand, we brought it back to the floor with an "ought to pass" because as a matter of courtesy, that was what we were debating at the time. That is the history of it. Now, let me reiterate to the Senate what has happened since then. First, Mr. Jennings was asked by me, as Chairman of the Committee, to provide us with a little research job with respect to who now has that authority if nothing happened to this bill or if this bill wasn't here, and so forth. The issue was being somewhat confused by the fact that there was a constitutional amendment that was passed and there had been a supreme court ruling and I would like to read into the record, if I could, just two paragraphs from him with respect to this issue, so I think it clarifies it very well.

"Dear Senator Monier,

You have asked our office to advise the Committee on the law relating to the appointment of medical referees under RSA611:1. Prior to 1973, medical referees were from each county. Prior to 1973, were appointed by the Governor and Council.

In 1973, Chapter 110 of the laws amended RSA611:1 to specify that "county commissioners shall appoint licensed physicians to be medical referees in a county in which they reside."

In response to an inquiry of Governor and Council on January 23, 1974, the New Hampshire Supreme Court ruled that medical referees were the same as coroners and since coroners were appointed by Governor and Council under Article 46, Part II of the New Hampshire Constitution, 1973, that law was of no legal affect. Period. So, therefore, the action that had been taken to summarize, was ruled unconstitutional. In November 1976, the people of New Hampshire voted to amend Article 46 of our Constitution, Part II, by deleting coroners from the list of officers appointed by the Governor and Council. This amendment to the Constitution did not affect the court's previous opinion it declared in 1973 that one was invalid. The generally accepted rule of statutory construction in cases like this is that a subsequent amendment to a constitution does not rely the previously unconstitutional statute. This rule is directly applicable in this case and the law requiring the appointment of a medical referee by the Governor and Council remains the law of the state. If the general court—and this was an advisory that I asked for—were to pass HB 106, the one we are currently debating, and the bill is

signed into law by the Governor, the General Court will readopt the law as passed in '73 but now the law would be constitutionally permissible. If HB 106 is not passed medical referees or coroners will be appointed by Governor and Council and this office would take steps to take the original language of RSA611:1, before its amendment in '73, be reprinted in the next supplement in the next RSA's. If I can comment for a second—this is why Senator Bradley and I—neither one of us could find anything in the statutes with respect to the issue what was happening because the old law of '73, which was declared unconstitutional, was printed and therefore, we weren't sure of this, and that is why we asked for it. What I am reporting back to the Senate as a whole is this—recommittal states that there is currently on the books a provision by which the Governor and Council can appoint medical referees period. That answers one. Second. Whatever action we take on 106 is separate from any other action taken before with one exception. It would probably now be constitutionally admissible where it was not before. Now, with those two things in mind, I think that the Committee has done its job of recommittal and bringing it back. Now, if I may, Mr. President—and I am not sure but I don't know if I need a point of order on this, but I would like to continue with some comments with regard to the bill itself.

Sen. JACOBSON: You may continue.

Sen. MONIER: Since this recommittal, I have talked with Representative Benton with respect to this bill and I think he did for me what I needed to do in my mind, and that is, he has brought reasons why medical referees should be appointed by county commissioners because Colonel Benton was unable to arrive at the recommittal hearing or a previous hearing I told him that I would report this to you people and I will do this without comment, if I may.

1. Medical referees perform their duties for the county They make their reports to the County Attorney.
2. Medical referees submit their expense sheets to the County Attorney who verify the sheets and forward to the County Treasurer for payment.
3. The county pays the medical referee for the viewing, mileage, etcetra, and not the Governor and Council.
4. County Commissioners are closer to and better acquainted with the physicians in their counties. They can react and ap-

point medical referees to fill a vacancy quicker than the Governor and Council.

5. Many doctors in the county already perform services at the County Home and hospital and are readily available and the County Commissioners ask them to serve as medical referees. There are no other instances in municipal or county government where the state has the authority to name individuals to positions in county and local government.

In the case of the local health officer, the state asks the selectmen of the town to furnish the names and then the state Department of Health and Welfare designates that individual. The naming and appointing of medical referees by the Governor and Council is directly contrary—and this is Colonel Benton speaking—to the principles of home rule and each municipality shall respond to its own operation to the maximum extent. In short, this was some of the testimony that was heard before the committee that was not presented to it during the last time because we got off on this other issue. If we may at this particular time, Mr. President, I move that "it ought to pass" and I will stand by that ruling and I hope I have provided the Senate with the history of what needs to be done.

Sen. HANCOCK: Mr. President, I would like to speak in opposition to this bill. I think that I am persuaded by the position of the Medical Society, which prefers to make professional recommendations to the Governor and Council, as they have in the past, and I think this removes the operation from the political considerations that might be present at the county level and for that reason I would urge that this bill be "not passed".

Sen. SMITH: I too would rise in opposition to the bill. I have served on the Governor's Council and we had the appointment of medical referees to contend with. This is not a job that is sought after by any doctor. It is a job which has to be—people have to go out and find doctors who are willing to serve and I think it is easier for the governor to talk to some doctor who has been recommended by the Medical Association who is willing to do this and to get him to do it than it would be for a county commissioner. Now, it is true that the county pays the bill. However, we also have other instances, such as your court costs—the Clerk of Court, which is mandated by the state and paid for the county—so I don't think this is a unique situation and I think also that the county—that

the medical referee—is quite accountable to the Attorney General and this gives the medical referee and the Attorney General some relationship with that medical referee rather than having the county attorney—the county commissioners—appoint.

Sen. DOWNING: I rise in support of the committee report. I just can't understand the county being responsible for all the expenditures and directions, and so forth, of an individual without having the appointing authority. I think the bill is a good bill and would like to see it pass.

Sen. MONIER: If I may explain our position. I made the motion so we could have the debate. I want the Senate to understand that.

Adopted. Ordered to a third reading.

(Senators Hancock, Bossie, Smith, Monier and Jacobson voted in opposition.)

SB 4, establishing a board of claims for the state and making an appropriation therefor. Ought to pass with amendment. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: You will recall last session we had some discussion about sovereign immunity, particularly with regard to cities and towns. As you know, the Supreme Court in a ruling in 1974 wiped out sovereign immunity for the cities and towns. One of the reasons they did so was that there was no way for a citizen who was harmed by the city to get compensation. However, in that ruling they said "we are not affecting sovereign immunity of the state because the state has the General Court to do its work on claims", and as it said in the end of the opinion, "We understand the legislature is now actively considering a procedure by which the claim against the state will be better handled". Now, that dictum in that decision was made because I had been discussing with Justice Kennison this exact problem because I felt, as a person doing a good deal on the claims against the state here, that the procedure was woefully inadequate for justice to be done to the citizen and as I said when we had our debate—and I am not trying to bring up old sores—you saw how that thing began to get entangled with other people's claims and things being tacked on and the political considerations coming in. Rather than having each claim being handled on its own merit,

secondly, in handling the claims, we never really have been able to do a good job of factfinding. If there is a controversy, we tend to just plain not do the job very well. We are not trained in the law nor in finding a better one. **SB 4** is designed to take care of that problem. Under **SB 4**—it has been worked out so that the only opposition I had to the bill at all was from Colonel Benton, who wanted to keep the House Claims Committee going. Colonel Benton and I worked things out so that the compensation board will have one member of the House and one member of the Senate on it, in addition to three other people. Every claim against the state, whether we are in session or not, the timing is important, will come before this board. The board would then make its finding of fact and recommendation. If the claim is under \$10,000, the claim can be paid by the board without further action on the part of the State or the House or Senate. It used to be \$25,000 but is scaled down to \$10,000 in the amendment. If it is over \$10,000, the claim comes into the Fiscal Committee and from there to the House and Senate floor. But they do not retry the merits of the case. They simply say whether they are going to fess up with the dollars or not. That is the only role that we would play. The amendment here mainly changing the amount on how the Senate members would get off, changing the per diem that is \$65 per day—which is the same as the Ballot Law Commission per diem—so that we scaled that down to be in line and changing the jurisdiction down to \$10,000 for them to make a full claim. Normally, we don't have any very big claims. Furthermore, I don't see any rush of claims coming in because of this. We had a claim the other day, I think, in the House for \$20 for a person's dress, which was sort of pulled apart by a patient at the Laconia School. Now, it cost some money—\$140 just to run the paper and ink through the press on that bill—it is going to take all our time and hearings and everything else to take that claim, plus the fact that it is two years old and if this board had been around, they could have taken those claims, accumulated four or five of them, sat for a day and made recommendations. I think the biggest reason you will go for this bill—if you go for it—is the fact that if we do not, I can assure you that there is going to be a question in the future of sovereign immunity for the State of New Hampshire. The Supreme Court is giving us this nice gentle hint—as nice a hint as they can at this time—saying “We know the General Court has the capacity to do this. We

know they are working on it, therefore, we are upholding sovereign immunity''. I must say that I think sovereign immunity is a good idea and I want to have it kept and in order to keep it, I have to find a way—we have to find a way in an orderly process for the processing of claims. Therefore, **SB 4** has been worked over quite hard—it came in early, as you can see by its number—it has been worked over, the amendment has been carefully drafted, and I think I have complete agreement on the side of the House members who were originally opposed. But this is something they should do and are happy with it.

Sen. MONIER: The question I have is two-fold and I really hope you will understand I am not fighting it because I don't know the bill—the first one. Your reference to sovereign immunity of the state. I think you are well aware, if I may, that twice I have tried to repeal the sovereign immunity that has been taken away from the towns and municipalities and I can assure you as a matter of record, I will try it again. I think that is the wrong way to approach things. Now if I vote for this bill, do I then jeopardize the fact that at a later time in this session there will be bills in to guarantee sovereign immunity to the state?

Sen. TROWBRIDGE: No. The problem that you have on sovereign immunity—if you pass the bill, you are saying sovereign immunity is hereby enacted. Right? Sovereign immunity—the question is the constitutional right of a person who has been hurt, that will be the issue on that one, as to whether the court will allow us to say "we won't pay anybody, no matter how flagrant we have been". That will be the problem with that one. It is the reverse of the coin that we are talking about here which is you keep sovereign immunity because you have an alley-way in which a person who has been hurt can make a claim. That is the way, in my opinion, to keep sovereign immunity.

Sen. MONIER: Not to belabor the point, I would have to disagree with you that that would be the issue on sovereign immunity because sovereign immunity is by common law—not by statutory law—and except for the fact that the House and Senate passed the bill two years ago, taking that sovereign immunity statutorially and taking it away—it would still be in effect, even though the courts had ruled such in one case that they could do it. That is "precedent". In short, what I am saying, I am asking if you would agree that we, as legislators,

have the right to say "yes" or "no" to that. Obviously, the courts then can pass on it at a later date. Then, to get back to my original question, if I am for or against this bill—if the bill was enacted, does it in any way handicap the discussion and possible need, as I see it anyhow, of sovereign immunity being enacted statutorially for the state?

Sen. TROWBRIDGE: No. The two go hand-in-hand.

Sen. BOSSIE: A question of Senator Trowbridge. I am reviewing your amendment and the original bill and I favor the concept but there is one part I really don't like and it may be you have struck it out—I don't know—but it is on page 9 of your original bill, as regards to attorneys' fees. I find it strange that one would, in doing something of this nature, focus their attention on the question of attorneys fees and limiting that to 25%. Shouldn't this be a question between the client and his attorney? Why should the state involve themselves in this, like "Big Brother"? Have you struck this out in your amendment?

Sen. TROWBRIDGE: The answer is we have not struck it out and I am interested in that in that we thought when we said that—let us say you get a small claim. A lot of people come in with no attorney. You get a claim for \$200. To allow the attorney's fees \$200 and the person gets nothing, so that the thing here says that they be limited to 25% of the amount allotted. Now, a lot of people will be able to come before this board without having an attorney, which probably even throws you into a bigger—nevertheless, we thought was a proper thing and is part of the bill at the present time.

Sen. BOSSIE: In further alignment, if there are a lot of people who come to an attorney—and I will say, for instance, those that come to me—their principle is not mine. If they want to fight something because they want to fight it—over a \$200 bill—so they say, well—I say "Gee, it is going to cost you three times that to fight it the way you want to", "I will pay five times that". Well, they will. So if that is their principle, then they should pay for it and if they don't want to have an attorney, that is fine, but I really kind of object to the government involving themselves into a contractual arrangement between the doctors, lawyers—whatever they are. I just don't think that is the correct way. If I were to make this a special order for, say, a week from Thursday, to give us time to review it and also to prepare an amendment to strike that section, would you have any strong objections to that?

Sen. TROWBRIDGE: I will tell you this bill has to go to the House. All right? I want, if I can, to get this law on its way in order that it won't get tied up in a last minute anyplace because it is, as you can see, an arrangement for an important thing and I would prefer, Senator Bossie—and I would have no objection if you let the thing pass and then take it up in the House—I don't see why we don't use both methods.

Senator Bossie moved to make **SB 4** a special order for Thursday, April 7 at 1:02 p.m.

Adopted.

SUSPENSION OF RULES

Senator Rock moved that the rules of the senate be so far suspended as to allow the introduction of a bill without the previous notice in the journal or a prior hearing at the present time.

Adopted.

COMMITTEE REPORT

HB 425, making a special appropriation for moving the department of safety from the John O. Morton building and other locations to the James H. Hayes safety building. Ought to pass. Senator Rock for the committee.

Sen. ROCK: The bill in question has been placed before the members of the Senate, and if you will look at HB 425 you will find it is an act making a special appropriation for moving the Department of Safety from the John O. Morton Building and other locations to the James Hayes Safety Building. The purpose of the suspension of the rules and the introduction to the bill without the requisite hearings and two days notice falls in the footsteps of action taken in the House on this same legislation. All along, it was the understanding of the Department of Safety that the costs to be incurred with the move to the new Hayes building were included in the capital appropriation for the building itself. The Treasurer's office has informed the Department of Safety that this is not the case and there were several alternatives. It was thought that the state prisoners

might be called in to move the state police over to the new building, but that didn't work out too well. Therefore, for costs involved—that is the moving van service, telephone installations, pulling of computer cables, and other contingencies have to be appropriated otherwise. We have a new building designed for our Safety Department and no way to get them over to the new building because we don't have any money appropriated for it. We have also, under Section II of the bill, appropriated enough money to get the building through the last quarter of FY77 for the personnel and the current expenses and equipment necessary. So you really have two parts of the bill under paragraph II on page 2. You will notice that the sums appropriated are charged against the funds as follows:

\$13,974 from the general fund

\$44,067 from the Highway Fund

\$ 586 from Driver and Safety Education

I will answer any questions about the amounts. I will add, however, that there is nothing in this bill that moves Troop A anywhere but where it is. It stays at its present location. Also that this move really has to be affected by April 13 and I hope that the Senate will concur in the swift passage of this legislation.

Sen. FENNELLY: I notice here that it costs \$35,000 for a moving van and moving service to move that. Could you give me some testimony? That is quite a bit of money to move the Department of Safety.

Sen. ROCK: There is quite a bit to move. They are moving from several different locations. A large amount is inventory files, removing the files, changing over to new files. The testimony indicated that if the entire \$35,000 amount was not expended it would lapse but we are providing enough here to take care of the job properly.

Sen. FENNELLY: On the moving, does that go out for bid? Was there any testimony and/or does the Department of Safety just award the contract?

Sen. ROCK: It goes out to bid.

Sen. BERGERON: (of Senator Rock) I appreciate your honesty in reassuring me that there is nothing here to do with Troop A; however, you made a comment and I have expressed my opinion that I would like someone to give me a straightforward honest answer as to why something cannot be done. I concur with Senator Fennelly that \$35,000 for moving is an awful lot of money. Why, after we read newspaper arti-

cles, we see pictures of some of our people in our institutions laying in hallways, laying across chairs—they are bored stiff out of their minds. They have nothing to do. Why can't we utilize some of these people by putting them to work in moving the Department of Safety? I see nothing wrong with getting the prisoners at the State Prison to move the Department of Safety records, under supervision. We could probably give them cruisers to commute back and forth. But seriously, I don't know why we can't use some of these people in our institutions under proper supervision; why we can't use some of these people to affect this move.

Sen. ROCK: I would have to answer your question with my limited knowledge of the moving industry, but I defer to my colleague in the 13th District. I do know, Senator, that the art of moving in my own business at Nashua is one where I don't ask my own people to move the desks or the full file cabinets because you are going to wind up with somebody having a double hernia and a broken back moving the furniture. I think the \$35,000 would be minimal compared to the claims you would have if you made some state wards, or persons, do some of this moving. I think we have to have it moved by professionals who have the proper equipment, the proper trucks, and the proper knowledge of handling this material. If you give an untrained person a \$1,500 typewriter to move, you are going to have about \$4 worth of spare parts when he drops it, and I don't think you want that.

Sen. BERGERON: In other words, you are comparing an inmate, for example, at the State Prison in the same vein as an employee of yours?

Sen. ROCK: Not really. I would have some misgivings about having the inmates at the State Prison move the furniture for the Safety Department because I wouldn't want to have to inspect that equipment before it was used after they moved it. I say that not facetiously. I think as a matter of fact, you can't do that anyway. The law wouldn't let you do it.

Sen. HANCOCK: I don't want to cause Senator Rock any consternation but I agree with him. I could think of nothing more foolhardy and wasteful, inefficient and uneconomical than having people who don't know how to move things try to do that and I have had some slight experience in that manner in the state office. It does result in injury and results in inefficiency and by all means, I agree with Senator Rock, that

the money should be spent insofar as possible that is needed for the job.

Sen. BLAISDELL: (of Senator Hancock) Did you know that Louie Bergeron was in the insurance business?

Sen. LAMONTAGNE: Mr. President and members of the Senate, let me tell you that this is very serious, of what the Safety Department is in need. Now, if this appropriation is not done, it means that right now there is a building with heat and, at the same time, with lighting and no one to maintain it. Now, this is something for you to think about. If you want to do some thinking—there is a lot of machinery and it is computers. If these computers are not moved by experienced people, the Motor Vehicle Safety Department will be in a serious matter in that they will need additional funds to repair the equipment. Now, you need experienced people to do this type of work. I hope that the Senate will go along with this House bill and I hope that we don't do the same thing as did the Appropriations Committee when the substations—when the "inexpedient" came in. Look at the problems that we are having because the Safety Department did not get the appropriation from the House Appropriations. If you people haven't got these complaints, I have, because you ought to see the line that there is in Berlin at the substation with only one girl to maintain. Also, I have been told, in Portsmouth there is a long line because there is only one girl and I have been told that because of the lack of the appropriation, if that girl does get sick, it means that they are going to close the doors. Now, I hope that they are not going to close the doors on the Safety Department and have some experienced people to move the equipment. They have computers that need to be moved by experienced people.

Adopted. Ordered to a third reading.

SB 61, relative to the treatment of juveniles as adults in criminal cases. Ought to pass with amendment. Senator Bosie for the committee.

Amendment to **SB 61**

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Treatment of Juvenile as Adult. Amend RSA 169 by inserting after section 21-b the following new section:

169:21-c Treatment of Juvenile as Adult. Any juvenile whose case has been certified to the superior court and who has been treated as an adult by said court shall thereafter be treated as an adult for all purposes in connection with any subsequent offense with which said juvenile may be charged.

Sen. BOSSIE: The amendment by the Committee is on page 15 in today's calendar. Basically, the amendment just takes away one word. The text of the bill says "treatment of juveniles as adults. Any juvenile whose case has been certified in superior court and can be treated as an adult, shall thereafter be treated as an adult for all purposes in connection with any subsequent offense". Basically, the original bill said "any subsequent criminal offense". We take out the word "criminal" to apply to all offenses, thus it would apply to violations as well as to misdemeanors and felonies. This bill I introduced as the result of a request of the City Probation Department for the City of Manchester. As you know, in Manchester, we on occasion have very serious offenses committed by juveniles. In that instance, the court has the prerogative of treating these people either as juveniles or as criminals and they can be given the same penalties as these people. A juvenile—the most you can give them is "no fine" and a commitment to the State Industrial School. A criminal, as we know, you can do anything up to the maximum punishment imposed by law. So what this would do is provide in the instance—and I will use the instance provided by the probation officer—the reason that this came about is that we have had some experience with some of our efforts in certification where, within a given year, we found ourselves going through the process of certification with a youth being certified subsequent to that. This youth goes back into the community and is arrested again and in the initiating process from the police went all the way, starting him as a juvenile, and we ended back in the same court that certified him originally. The statement of the presiding justice at that time was that he had already certified the boy previously as an adult and therefore, why should he be treated as a juvenile? The process of certification of juveniles as adults is a very complicated one. It is one in which the society is protected against these kids who, for some reason, act as adults and commit crimes that are so

serious—such as murder—that the district court has a hearing on certification if they agree that the child should be treated as an adult. It is sent to Superior Court and they again do the same process over. So there are two hearings already. Now, when it is a child, for instance, who commits a homicide and is sentenced to Superior Court under a felony, at that time, if he thereafter—say, he steals \$100—why should he be treated as a juvenile? It is a very simple thing and most of the testimony was in favor of it and there was one judge from a local area who did not favor it and I think he was mistaken. I don't think he understood what the purpose of it was, but a number of judges showed up and thought it would be a decent bill and a step in the right direction.

Sen. ROCK: Did you identify the judge who was opposed?

Sen. BOSSIE: Judge Marx of the Concord District Court, and the other judge was Judge Capistran who favored it and also Judge Walter Hinkley of the Lancaster District Court.

Amendment adopted. Ordered to third reading.

SB 80, relative to the sale of cider. Ought to pass. Senator Downing for the committee.

Sen. DOWNING: SB80 merely puts the cider, which has over 1% and less than 6% alcohol content under the regulation of the Liquor Commission and in the same category as beer.

Adopted. Ordered to third reading.

HB 131, providing a different method of collecting penalties due the state for late certification filing of certain tax information. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: This is basically a housekeeping measure requested by the Department of Revenue Administration. It really doesn't change much except that it concentrates assessing a penalty within the Department of Revenue Administration and only gets the Treasurer's Department involved when they are unable to collect the assessment. The way it is now, is going from the Department of Revenue Administration to the Treasurer's office, they become involved. What

they are trying to do is have everything handled right within the Department of Revenue Administration. The only time the State Treasurer's office will become involved is if they cannot collect the penalty. They will withhold the funds. There was no opposition to the bill.

Sen. ROCK: This may be a simple bill, but I notice that Representative Bednar is the sponsor and Mr. Price is pushing for the bill and right away I am suspect. Why isn't it a good idea to have another state department involved, such as the Treasurer's Office, to make sure that the Department of Revenue Administration isn't just overlording it over the towns?

Sen. BERGERON: I suppose, as a matter of individual preference, the only thing went on was the basis that the bill was heard and there was no opposition to it and it didn't seem to be anything that was that involved that would create any problems for anyone.

Sen. ROCK: Was there any great amount of support for the bill?

Sen. BERGERON: We had the sponsors of the bill—Bednar, Peppitone, and a Mr. Workman from the Department of Revenue. To my knowledge, those are the only people who testified.

Senator Rock moved that HB 131 be laid on the table.

Adopted.

HB 43, relative to the service tax exemption for real estate taxes. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: The tax exemption law for veterans does not have the same dates as the Vietnam bonus law. This has caused problems to veterans, tax collectors, and others. This bill makes all the names of the tax exemptions as to the voters. I urge its passage. (Note: the speaker was not very audible—Court Reporter)

Adopted. Ordered to third reading.

HB 170, relative to property tax exemptions for certain disabled servicemen. Ought to pass. Senator Keeney for the committee.

Sen. KENNEY: At the present time, certain disabled veterans are allowed to have money through the Veterans Administration to build homes, specially adapted to their physical needs. However, two of the thirty six that are now taking advantage of that in the state of New Hampshire, are interested in selling these first houses and rebuilding the same type of house. Our law in New Hampshire doesn't clearly say that they can receive the same privilege—property tax exemptions. This bill would allow them to do so.

Adopted. Ordered to third reading.

HB 332, requiring records relative to meals and rooms tax to be kept by each operator for a 3 year period. Ought to pass with amendment. Senator Bergeron for the committee.

Amendment to HB 332

Amend RSA 78-A:22, III as inserted by section 2 of the bill by striking out said paragraph and inserting in place thereof the following:

III. Reports and returns shall be preserved for 3 years or longer if ordered by the commissioner to retain said reports and returns for some purpose until released by him.

Sen. BERGERON: Mr. President, again, one of these innocuous, simple, housekeeping bills that I would like to get out. The change simply conforms to the three-year statute of limitations for audits. Again, the bill is requested by the Department of Revenue Administration. The amendment simply states that reports of returns shall be preserved for three years or longer, if ordered by their commission to retain said reports and returns for some purpose until released by him. The problem was that the statute of limitations under the audit was for three years. The statute further required business people to keep their business records for a period of two years. It was inconsistent with the audit requirements. Again, no opposition to the bill. Simple, clean, housekeeping.

Amendment adopted. Ordered to third reading.

Senator Downing moved that the Senate now adjourn from

the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to a third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in honor of the birthday of the Senate President which occurred yesterday, until Wednesday, April 6 at 2:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 271, relative to the proper display of the state and national flags.

SB 110, relative to possession of account books and making of payment by a school district treasurer.

HB 119, authorizing the position of hearing officer in the department of education.

SB 96, establishing an optional procedure to make emergency expenditures under the municipal budget law.

HB 106, relative to appointment of medical referees by county commissioners.

HB 425, making a special appropriation for moving the department of safety from the John O. Morton building and other locations to the James H. Hayes safety building.

SB 61, relative to the treatment of juveniles as adults in criminal cases.

SB 80, relative to the sale of cider.

HB 43, relative to the service tax exemption for real estate taxes.

HB 170, relative to property tax exemptions for certain disabled servicemen.

HB 332, requiring records relative to meals and rooms tax to be kept by each operator for a 3 year period.

Adopted.

Senator Trowbridge moved to adjourn at 5:20 p.m.

Adopted.

Wednesday, April 6

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, help us to remember day by day the faith and trust which has been placed upon us by the people of this State. May they never be deceived for we hold within our hands the power which shall determine their fate and the circumstances of their lives.

Let us hope that the spirit of this season may help us and bring us to a better understanding of ourselves as well as of our duties here.

May thy light show us the way as we try to follow him.

“In as much as ye have done it unto the least of these my bretheren, ye have done it unto me.”

Amen

Senator Trowbridge led the Pledge of Allegiance.

COMMITTEE REPORTS

SB 118, relative to reporting all resources received by a welfare recipient. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President, this is a simple house-keeping bill which simply conforms state statutes to federal law stating that all income must be reported. There was no opposition to the bill and it comes out of committee unanimous.

Adopted. Ordered to third reading.

HB 1, relative to the fee schedule of the recording officers. Ought to pass. Senator Brown for the committee.

Sen. BROWN: Yes, Mr. President, this bill refers to the registers of deeds in the 10 counties in the state of New

Hampshire. What it does is, it raises the fees for recording and indexing and so forth, and in some cases it's five to six dollars and in others, two to three dollars, and in a couple of cases, it's two to six dollars and the six dollars is strictly to conform with the uniform constitutional regulations of the federal government. This applies only to the eight counties that are on the salary system. It does not apply to Coos and Carroll county who have the only fee system; but it does state that, if when they go on a salary system, they will conform with this law.

Sen. FENNELLY: Senator Brown, we have this bill in this last session. It went to the Judiciary committee and it was killed here on the floor of the Senate. In the testimony, can you tell me what the cost would be to the consumer or to the public on the amount of transfer deeds, at say Rockingham county, per year. Was there any testimony given on that?

Sen. BROWN: No, I cannot say what it would cost per year for each consumer. No, I cannot.

Sen. FENNELLY: Would you believe me, Senator Brown, that in Rockingham county there were seven thousand nine hundred last year which would be approximately \$19,000, and in Hillsborough county, the register of deeds testified there were 17,000 transfers with an increase of \$3.00? Was that brought up at all?

Sen. BROWN: I cannot argue with you on the figures. You may or may not be correct. But it was stated that the cost of paper, the microfilm, the indexing, and so forth has gone up, and in order to remain self sustaining and not cost the tax payers of the counties, these fees were necessary.

Sen. FENNELLY: Senator Brown, is it not true that all of the register of deeds officers of the state are self sustaining? They make money period. If this bill was approved, it would go to the county commissioners directly, am I correct?

Sen. BROWN: No, that is not true. According to the testimony, that's not true. The money received from these goes into the general fund of the county.

Sen. FENNELLY: In which the county commissioners have control over, am I correct?

Sen. BROWN: And your county delegation has control in the allocation of that money.

Sen. BERGERON: Senator Brown, were there any register of deed people in the various counties at that hearing?

Sen. BROWN: Yes. They were all there.

Sen. BERGERON: Did any of them object to the bill. Was there any opposition?

Sen. BROWN: They were in favor and felt that it was very necessary because of the high cost.

Sen. BERGERON: Senator, can you tell me in testimony that was offered at the public hearing, who would be affected by the rate increase primarily?

Sen. BROWN: Mainly, real estate people—transferring, selling property and mortgagers.

Sen. BERGERON: Did testimony develop that the individual man on the street who might buy a home once in his life time really would not be affected but it will hit the fellow buying and selling?

Sen. BROWN: That's true Senator.

Sen. PROVOST: Senator, in section 48:17, it says Belknap county and so forth shall be entitled to the following fees. Why is it worded this way?

Sen. BROWN: I'm sorry, would you repeat that?

Sen. PROVOST: Right here, register of deeds shall be entitled to the following fees, why is it worded that way?

Sen. BROWN: Because this was amended, Senator, in the House. The bill that came to us was a full bill amended by the House. I have looked it up. It left out Carroll and Coos county because they are on a fee system and the register of deeds keeps the fees and pays the help and so forth. This goes to the general fund. I mean the general fund of the county.

Senator Bossie moved to indefinitely postpone.

Sen. BOSSIE: Mr. President, if the members of the Senate will refer to the House Record, page 622, it's on your desk, it's very important because this bill has been amended substantially. As you know, two years ago there was a similar bill that came before the judiciary committee and came out inexpedient to legislate and the bill was defeated here on the floor of the Senate. This year the bill came back in a little higher form. They raised the amounts and it certainly was referred to this other committee, which is fine, but now it's got an "ought to pass" recommendation on it. Some of the things that really bother me about the bill is that what we are going to do eventually is price people out of the housing market. This isn't just the people in business, this is for the homeowner and most of our homeowners buy a \$20,000 or \$30,000 home and they

have to pay the tax stance at \$1.50 per thousand and they pay the recording fee and it is expensive the way it is. Certainly any fees are passed on to any lawyer. The lawyer doesn't pay them except in the first instance; but what it does for those who are concerned with towns for any tax lien or real estate, you've got to put a \$6.00 up. In other words, if there are 300 properties in a town that taxes haven't been paid on, in order to list them in the register of deeds and have a protected lien, it would cost that town \$1,800, plus when you want to discharge a lien, it would cost you some more. Now, I don't know about you, but in the City of Manchester, we would probably be paying \$15,000 a year to record these liens. There are a substantial number of people who just don't pay their taxes on time. Now I understand the need and necessity for raising income in revenue for the registry of deeds; but I do know at the same time, that in my own county, Hillsborough, they made a profit last year and it still takes six or seven weeks to get a deed back from the registry of deeds. If they are going to use this money to pay for improved methods at the registries, I guess I have less of a problem. I do know that in Rockingham county they do have a fine register of deed and they've got a lot of recording what they are doing and that is good, but I don't see the need whatsoever for this additional expense to our citizens and to the various municipalities that we represent. I think in the end if they want to come in for a fifty cent raise on some of these fees, I think we should consider that, so I would either ask you to vote my motion to indefinitely postpone or to recommit it to committee for further study, or send it to interim study. That would be a good place for it.

Sen. LAMONTAGNE: Senator, you're an attorney?

Sen. BOSSIE: Yes.

Sen. LAMONTAGNE: Senator, can you tell us whether today, for instance, a piece of property is purchased that if its being recorded has anything to do with this?

Sen. BOSSIE: I believe your question is correct. Normally, when one buys real estate, in order to protect it, they would record it in the registry of deeds so as to give notice to all others.

Sen. LAMONTAGNE: Is this registering done in a county?

Sen. BOSSIE: Yes.

Sen. LAMONTAGNE: Does this bill make any

changes. Does it make for a recording in the city or town clerk or does it still stay in the county?

Sen. BOSSIE: I believe it does.

Sen. LAMONTAGNE: What do you mean you believe it does? Tell us what it does?

Sen. BOSSIE: O.K. Basically—could I have a one minute recess?

Senator Lamontagne moved that HB 1 be made a special order for Tuesday, April 12 at 2:01 p.m.

Sen. LAMONTAGNE: The reason for this motion is because I have talked on this matter with Senator Bossie and Senator Fennelly and it seems that my question cannot be answered and therefor, they have asked me if I would research the matter and report back next Tuesday, which I will be glad to do.

Adopted.

HB 329, relative to the tenure of the poet laureate of New Hampshire. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President, this is a very simple bill. It was presented by Representative Scranton of Cheshire, Keene. The only people who appeared in support for it were members of the New Hampshire society of poets, the correct title of the group. Miss Vinton, and you may have heard publicly that someone felt this was trying to remove her. This is not true. She may remain in the position until such time as she wishes to retire or until such time, as she might pass on. The basic information here was simply that they wanted this in a five year term to offer the opportunity for other poets in the future to do this, or if the poet association and Governor and Council so desire, that person can remain on. There was no opposition to the bill and no commentary to the bill. Therefore, it came out unanimously from the committee.

Sen. HEALY: On this particular bill, was this requested by the New Hampshire Poet Society, or is this something politically expedient?

Sen. MONIER: Well, I can't answer your last question about politically expedient. The New Hampshire Society of poets appeared in support of the bill and representative Scran-

ton of Keene, from Keene, indicated that it had the full support of all the various organizations, of which two were represented there, and I believe that's the limit of them. If there was any political expediency, it didn't show up in the hearing, and I know of none at all myself. I hope that none is shown now; but I just don't have any understanding of what you mean by political expediency.

Sen. HEALY: Well, I mean by political expedience, giving a five year term and then changing it later on, it looks as though to me that it's being placed on politics rather than the privilege of being a poet laureate for a life time, which changes it to make this every five years which would be something like a legislative office for five years.

Sen. MONIER: Well, I think that the only response I can give to that was given by a person who passed it in in testimony that was so well done that I'm going to read it for the Senate. I think it may answer the question of Senator Healy.

"I am Andrea Scranton, Keene, District Sixteen,

Oft buried in state budgets, so seldom am seen,

But today I am sponsoring bill number Three Twenty Nine

And a simpler one this session I'm sure you won't find.

Poet Laureates in Olde England, so history has said,

Lived on and wrote verse until they were dead.

T'was a fine tradition they set us, here in this State

But it seems now's the time to become up to date.

As our poetry society explained it to me,

Our present incumbent stays on indefinitely;

But mores, customs and social changes abound,

So perhaps in the future a shorter term should be found.

An appointment for five years is what they suggest;

A chance to retire, quit or just take a rest.

But if all are agreeable, another term is not barred,

So this gives more options to whomever is BARD.

In conclusion to you on E, D and A.

Thank you for letting me have my say.

And I hope when your deliberations are spent

You won't have found this bill inexpedient!"

Sen. MONIER: And that's the only answer I can give you.

Sen. HEALY: I concur.

Adopted. Ordered to third reading.

SB 43, relative to security deposits on real property. Referred to Interim Study. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, we heard much testimony on this bill, very conflicting and, in fact, the only testimony directly in favor of the bill was from the consumer advocate lawyer. There were many people who testified against it. Apparently it poses all kinds of problems to rentors. We found no easy solution to it so we recommend it be studied for further action.

Sen. DOWNING: Mr. President. I rise in support of the committee report. I would advise the Senate that I am the sponsor of this bill. There is a far better instrument in the hands of the Senate in House Bill 57 at this time and there has been a lot more work done on it and it has come along further. I think we can address ourselves to this matter in that bill so I urge your support of the committee report.

Adopted.

SB 66, relative to collateral for small loans. Inexpedient to legislate. Senator Rock for the committee.

Sen. ROCK: Mr. President, members of the senate, this bill provides that on small loans less than \$5,000, the first thousand dollars' worth of household furniture cannot be used as collateral. The testimony at the hearing, I believe, told very truthfully, and most importantly, what would really happen if this bill were to pass, and rather than being a help to the consumer, as I am sure the Senator from District 15 intended, we see it as a real hindrance to the consumer, especially to the consumer making this kind of loan. What eventually would happen is, that the companies making loans would just not make a loan of this type if there were no way in which they could use the first thousand dollars of furniture as collateral. As a matter of fact, many of the people making this kind of loan have little or nothing else that can be offered as collateral, and with no collateral offered, no loan would be made. There is protection under the present law that is giving persons certain things that they have and own and I think that is sufficient. I would hope that the Senate would see the wisdom in not passing this kind of bill because definitely it flies in the face of what wasn't intended and would prove to be more of a hardship, than it would be a benefit to the consumer, if it's passed.

Adopted.

HB 296, providing for the amendment of articles of agreement or legislative charter by a mutual savings bank or a guaranty savings bank. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to HB 296

Amend RSA 386:29, II as inserted by section I of the bill by striking out same and inserting in place thereof the following:

II. If the board of trust company incorporation finds that the proposed amendment satisfies the requirements of RSA 386-A:26 and was adopted in accordance with RSA 386-A:27, and the public convenience and advantage and the interest of the petitioning institution, its members, stockholders and depositors will be promoted by the proposed amendment, it

shall so certify, and shall endorse its approval on one of the certified copies of the amended articles of agreement or amended charter. The petitioning savings bank shall thereupon file the same in the office of the secretary of state, accompanied by a fee equal to one-tenth of one percent of any increase in its authorized capital debentures, capital stock or special deposits provided for by such amendment. The secretary of state shall thereupon cause said amended articles of agreement or amended charter, with the endorsement thereon, to be recorded, and shall issue a certificate of amended incorporation, and thereafter such savings bank shall have all the powers and privileges provided for by said amended articles of agreement or amended charter. The fee for recording with the secretary of state any amended articles of agreement or amended charter, which does not embody any increase of the authorized capital debentures, capital stock or special deposits, shall be \$25.

Sen. POULSEN: Mr. President, the amendment is on page six of the calendar. The amendment only raises the fee from \$5 to \$25 for charter change. The bill itself eliminates the necessity of banks coming to the legislature each year to have a change in their charter approved. Under this bill, they will be able to do it through their own incorporation or stockholders by vote and then approval of the board. It will eliminate a lot of unnecessary and tedious work of approving charter changes that has gone on through the years since I can remember.

Amendment adopted. Ordered to third reading.

HB 238, relative to the investment powers of savings banks. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill does several things for banks. One, from the 80% figure that a bank is allowed to use for mortgages, in other words, they are not allowed to have more than 80% of assets in mortgage. This eliminates money that they may have to borrow in tight money times from the federal loan bank. It gives them a little more flexibility in that sense. It also extends the term of mortgage from 30 years to 40 years which is only used as a

catchall at the end of a float loan where a person purchases property with a floatable rate. Its used so that payment do not have to be increased but can instead be extended beyond the normal term of the mortgage. It also does one other thing. I allows contributory deposits in the states of Maine and Vermont of approved banks which is a practice commonly done on the boarder towns. Each bank keeps deposits in sister state banks. Its a convenience thing.

Sen. LAMONTAGNE: Senator, could you tell us whether or not the bank would report to the banking commission in their chain or would they report to the secretary of state?

Sen. POULSEN: Changing the charter goes through the secretary of state. Thats what the amendment was on the bill before. That has to go through the secretary of state and there is a form for it and a fee which was raised now to \$25.

Sen. LAMONTAGNE: Then after its been reported to the secretary of state then its on file for anyone who wants to look at it, the change in the charger?

Sen. Poulsen: Right.

Adopted. Ordered to third reading.

HB 264, permitting towns to adopt a code of ethics for town officers. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the senate, HB 264 merely allows a town to adopt a code of ethics for either elective or appointive officers at its regular or special town meeting.

Sen. BRADLEY: Senator Hancock, during the time I've been in the legislature, we have had a number of proposals for so called code of ethics for legislators those have covered a whole manner of things. It seems to me, as to disclosure, incompatible officers, investment, now I am wondering, for my concern is and question is, isn't a code of ethics with nothing more painig it to broadly here and at least for purposes of legislative history could you tell us more specifically what we are now going to allow to do that they haven't been able to do in the past?

Sen. HANCOCK: The code of ethics was not specifically laid out by the sponsors of the bill and in terms of any specificity I think that they figured that in each case, I think we all understand probably what the code of ethics may be, I

think that the individual components of any code of ethics which might be formulated and put forth to the town meeting will depend upon what that town wanted and the provisions and parts thereof would be laid out.

Sen. BRADLEY: Did the sponsors suggest any specific kinds of provisions that they had in mind?

Sen. HANCOCK: No, they did not. I think that in general we have assumed that it related to such matters as revelation of conflict of interest and maybe some other members of the committee can speak to that. But I thought it did not deal in any great specificity as to what they wanted to include in the code.

Sen. ROCK: Senator, was there testimony at the hearing that indicated that what your saying the towns could do with this permissive legislation they cannot do now?

Sen. HANCOCK: As I recall Senator Rock that question did not arise. The sponsors evidently feel that it needs enabling legislation to proceed with this or I assumed they would not have introduced it as a bill.

Sen. ROCK: Looking at the sponsors, I am not too sure of that Senator; but let me follow that question. If there is not any preventive legislation now, why do we have to go through all of the expense and time consuming efforts of passing a bill that says you can do some things that you can already do?

Sen. HANCOCK: Well, I'm not prepared to answer that question. I think that applies to many of the bills that we consider here from time to time and I don't know of anything at the present time that precludes adopting a code of ethics without this piece of legislation; but I would give the authors credit for knowing that perhaps they needed it.

Sen. SMITH: I'm afraid I have some of the fears that others might have when you talk about a code of ethics in that I am not quite sure what we are talking about and I am certainly not opposed to a code of ethics. I wonder if when the code of ethics is adopted or allowed for a town, whether it shouldn't spell out more specifically what can be encompassed in a code of ethics. I think most of the laws which we pass in the state relative to towns and communities which are of a permissive nature, we set up some guidelines to allow the towns so that when they adopt something, it has to fall within those guidelines. I just wonder if maybe this bill should have some more consideration for the purpose of adopting guidelines so that some towns cannot develop a code of ethics which might

be a vendeta against some person or group within the town so that they couldn't run for office. I have no ambition to run for selectman, but I just wonder if the committee considered this at all.

Sen. HANCOCK: I think there could be two answers to that. Maybe the authors had in mind using the congressional codes that were newly passed for both the Senate and the House of Representatives. They have been very much in the news of late. Maybe they were going to be a pattern. This wasn't specified. On the other hand, if as Senator Rock indicates, perhaps there is some need for not having the legislation. Then your concern about specificity, as to what might be permitted, is a kind of out-the-window.

Senator Rock moved that HB 264 be recommitted.

Sen. BRADLEY: I rise in support of that motion; but I think we ought to send it back with sort of instructions and I would think that, what I would like to see is the subject matter better delineated. I think we ought to put it on the sponsors to come in and say we want a code of ethics which will allow the towns to say that we will have a financial disclosure law if that's what they are concerned with, or something at least that's specific, and while I'm up, in further answer to Senator Rock's inquiry, it's general law that towns only have the powers that this legislature gives them. I think a town could not properly adopt a very meaningful code of ethics without some enabling legislation, which I don't oppose, but I do think this legislature ought to establish some guidelines before we do it.

Sen. MONIER: Mr. President, as Chairman of the committee, I stand in opposition to the motion. Senator Hancock was correct in that we looked upon this in committee as being enabling legislation or home rule, whatever fancy fad you want to put on it. Two years ago I heard the argument that the state should not put any restrictions on the towns and I find it interesting that people are now arguing that we should. Quite frankly, I'm in disagreement with recommital. We heard this bill. There were two people that appeared for it and nobody against it. It was indicated that the towns were going to promulgate their own code of ethics. I don't want to get my committee in the business of trying to write a code of ethics; but I think it would only take one sentence. Every person, I think, in the House and in the Senate would either disagree or agree

with me, and you could make a real issue out of it, especially if it goes back to the committee. For that purpose it's going to stay there, so I'd rather entertain the motion that we indefinitely postpone it and let people stand up and be counted on the particular issue. It doesn't bother me in the least. Let's do it honestly and openly so that no one feels that it might have been done with only six of us here. I will tell you, in fact, that if it goes back to the committee, that's where it's going to stay.

Sen. BRADLEY: Do you understand, Senator Monier, there would be a difference in writing a code of ethics for municipalities, on one hand, and on the other hand, telling municipalities the areas in which they can write a code of ethics and further, you do understand, don't you, that the term code of ethics has, in general use, covered many, many different topics of things. You understand those distinctions, don't you?

Sen. MONIER: If I may reply Senator Bradley, I think I do. I think I am one of the few who have been accused of violating both sides many times. The truth of the matter is, a code of ethics is a popular word at the present time for a lot of reasons. Congress is doing it, the politicians caught President Nixon—I'm sure that they have caught many others before—and therefore, it's a very nice, hot, emotional issue and I will answer you very simply that I do understand. I think there is only one kind of code of ethics and that's where there is a direct benefit from your vote. I think all the rest of it is window dressing. I have no objections at all to sending this to the towns under a home rule argument, which is more basic to what we are talking about. I have no objections to putting it back in committee. I just wanted the Senate to understand and be on record as to where this would end. I don't think there would be any problem with the towns having a code of ethics and with them understanding. I understand the various kinds of codes of ethics so it's not a matter of not understanding, Senator. It's a matter of trying to expedite the business on it.

Motion failed.

Senator Monier moved that HB 264 be committed to the committee on the Judiciary.

Sen. BRADLEY: I rise to oppose the motion. If these people want to allow towns to develop a code of ethics. I think they ought to be entitled to do it. My only concern is that we

are giving them very much of a blank check which I don't think this legislature can do responsibly and I am sorry that Senator Monier has taken the position he has. I think this reflects on the nature of the rules we have in this Senate that allows the committee to do that because I think it's a very irresponsible thing if this whole Senate thinks a committee should have a bill back so that it can be rewritten in a particular way. It seems to me it's incumbent upon that committee to attempt to follow the wishes of the Senate. I am very sorry that this bill is now in the position of having to be indefinitely postponed because it is an unfair choice to put to the Senate.

Sen. MONIER: Your comment a moment ago, the whole Senate doesn't feel that. Are you aware that we just took a vote and it failed, so obviously, the whole Senate didn't agree with you.

Sen. DOWNING: Mr. President, I've had a little experience with a code of ethics at the municipal level and I would just check that with the Senate because I can't understand what the problem is with this bill. I'm looking for it but I am really not sure we know what we are confused about. I think a municipality can adopt a code of ethics now if they want it. I don't think it need this permission but I see no harm in giving them this statutory recognition for doing that if, in fact, you want to do that. I'll tell you the experience I had in my home town. In Salem there was a movement about 12 years ago to adopt a code of ethics to the school board and the board of selectmen. The basis for this was the national town managers code of ethics that is the skeleton of it and then a few things were adjusted to suit the school board and board of selectmen. The school board adopted that, probably about 10 years ago and there hasn't been any conflict or problems or anything else with it. You know, I never heard anything about it. The selectmen violently opposed it and didn't adopt it and I know there's been no problem with that either. So at least one community I know out there has discussed a code of ethics, developed one, adopted one, for one of their governing boards and it could very well adopt it for another one tomorrow if they wish to do that. There has never been any question of legality. The one problem that came up, where the selectmen hung their hat, was that a code of ethics was under discussion in the Legislature and we know there are a lot of code of ethics under discussion up here, but they just never really get very far. I think if the municipality were recognized individually,

they could do it themselves, and it would eliminate that type of question. For that value, the bill probably has some merit. Beyond that, I think the communities do themselves support the bill. If the committee felt we should do something else with it, fine. I just thought I'd relate my experience for what it's worth.

Sen. SMITH: I'm going to support the motion of Senator Monier to commit it to the committee on judiciary and I am doing it, I think, for the very reason that Senator Downing indicated. One, there has been evidently a code of ethics by a municipal association and, if this is the case, maybe this should be a guideline for towns to use. Secondly, his comment that for the last six years there has been at least one, if not many, bills relative to a code of ethics, brought before this Legislature which nobody could decide on. With all the brilliance in the House and the Senate, how does anyone expect the poor towns to have any kind of guidelines?

Sen. BRADLEY: Speaking as the chairman, without having consulted my committee, I have no objection to this motion.

Adopted.

HB 323, relative to loss of settlement for participation in local work programs. Ought to pass. Senator Hancock for the committee.

Sen HANCOCK: Mr. President, members of the senate, as I understand this measure if a popper is given an opportunity to work in a community and does indeed except that opportunity then the remuneration received is considered part of the welfare payment. I think thats about it.

Adopted. Ordered to third reading.

HB 307, allowing town selectmen to set the beano fee from \$1.00 to \$25.00. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, the current law provides for a mandatory fee of \$25. Some groups that have applied for licenses and non-profit organizations, and Senior citizen

groups were mentioned specifically, who ran small beano. The cost wasn't worth their while for \$25. and this allows the town selectmen to use their discretion and set fees between \$1 and \$25.

Sen. HEALY: I'd like to ask a question about this. I haven't had a chance to study it very much. One, we are raising the fee from \$1 to \$25. is that correct?

Sen. PRESTON: The fee is now \$25. Senator Healy. This just allows the selectmen or city council to charge \$2 if a small church wanted to run a small beano instead of the \$25 fee which exists today. It's a very compassionate bill for the smaller groups.

Sen. HEALY: Thank you very much.

Adopted. Ordered to third reading.

HB 156, relative to property tax list. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, HB 156 requires that tax bills be sent by a first class mail separate from any other town bill.

Adopted. Ordered to third reading.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 151-158 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 151, establishing the New Hampshire crime commission and making an appropriation therefor. (Sanborn of Dist. 17—To Finance)

SB 152, relative to products liability actions. (Rock of Dist.

12; Blaisdell of Dist. 10; Rep. Burns of Coos Dist. 4—To Energy and Consumer Affairs)

SB 153, relative to units of measure in the sale of wood. (Bradley of Dist. 5—To Energy and Consumer Affairs)

SB 154, adopting the uniform controlled substances act. (Jacobson of Dist. 7—To Judiciary)

SB 155, requiring all mobile telephone service companies and radio paging service companies doing business in the state to be regulated by the public utilities commission. (Bossie of Dist. 20; Rep. Boucher of Rockingham Dist. 3—To Energy and Consumer Affairs)

SB 156, relative to the director of divisions in the department of resources and economic development. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

SB 157, relative to regulation of carnival-amusement equipment by the division of safety services. (Smith of Dist. 3; Sanborn of Dist. 17; Rep. Splaine of Rockingham Dist. 19; Rep. Conley of Carroll Dist. 3; Rep. Keller of Carroll Dist. 5—To Recreation and Development)

SB 158, relative to closing of state liquor stores on Christmas eve and New Year's eve. (Keeney of Dist. 14—To Ways and Means)

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 78, 325, 174, 442, 340 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 78, increasing the fees for hunting and fishing licenses; revising the fees for members of the armed forces; requiring an agent's special accounting for the period ending July 26, 1977; and making an appropriation therefor. To Recreation.

HB 325, prohibiting the state from using state funds to issue

petitions favoring one side of an issue. To Administrative Affairs.

HB 174, increasing the fee for motorcycle operator's license to \$12 and providing an effective period for such licenses of 4 years. To Transportation.

HB 442, relative to the commission and tax on running and harness horse races. To Ways and Means.

HB 340, abolishing the police commission in Claremont. To Cities.

SUSPENSION OF RULES

Senator Sanborn moved that the rules of the Senate be so far suspended as to dispense with the notice of hearing and a committee report not previously advertised in the journal.

Sen. SANBORN: Yes Mr. President, SB 139 in effect had a hearing inasmuch as the bill was not in our hands at the time and had not been read in the Senate as of last Thursday when Mr. Walter Mead of Public Works and Highways was before the Capital Budget Committee and he thought we had called him specifically to testify on SB 139. So in effect the committee has had a hearing on this bill. Basically what SB 139 does is authorizes the commissioner of public works and highways to renovate the office space in the John O. Morton building that is being made vacant by the Department of Safety moving which we took care of yesterday. The sum of \$260,000 is requested to accomplish this purpose. However, at the same time there has been quite a bit of renovation and a bit of moving. This bill also says that the Public Works Division engineering staff will do all the engineering and architectural work in this project notwithstanding the provisions RSA 228:4, eliminating having to pay somewhere in the vicinity of 22 to 25 thousand dollars for architectural fees. This will provide the necessary money to make the complete renovation and also move the various equipment and departments that are now located in the Public Works and Highways Division. In the existing highway garage up on the hill so they all will be connected together with the exception of two small components that will remain down there. I believe that one of them is the computer. The vacant space that will be in the garage will then be available to be rented to other departments of the state that may require so that we will in fact be able to save considerable

money and have some vacant space for other departments of the State. The sum of \$260,000 will all be coming out of highway funds and will not effect our general fund whatsoever. The committee has all agreed on the passage of this bill.

Sen. ROCK: Mr. President, I rise very briefly in support of the motion now before the Senate. I think that this is moving ahead in the right manner and getting things done and in the long run its going to save money in getting these people under one roof and getting the place renovated.

Adopted.

SB 139, making an appropriation for office space renovation at the John O. Morton building. Ought to pass. Senator Sanborn for the committee.

Adopted. Ordered to third reading.

Senator Poulsen spoke under rule No. 44.

ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until 1:00 p.m. April 7.

Adopted.

Late Session Third Reading and Final Passage

SB 118, relative to reporting all resources received by a welfare recipient.

HB 329, relative to the tenure of the poet laureate of New Hampshire.

HB 296, providing for the amendment of articles of agreement or legislative charter by a mutual savings bank or a guaranty savings bank.

HB 238, relative to the investment powers of savings banks.

HB 307, allowing town selectmen to set the beano fee from \$1.00 to \$25.00.

HB 156, relative to property tax list.

SB 139, making an appropriation for office space renovation at the John O. Morton building.

HB 323, relative to loss of settlement for participation in local work programs.

Adopted.

Senator Healy moved to adjourn at 3:35 p.m.

Adopted.

Thursday, April 7

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, how wonderful it is to live in a land of hope and freedom.

We in this body, are going through our own dark days this Holy Week, yet hopefully, with his loving care we will see at the end of it, Easter Sunday, a commemoration of new life, that has lived through the centuries and led men forward in new efforts and attainments.

We pray for forgiveness of our misdeeds in order that we will be able to share the joy of the great day with peace, love and more understanding of our fellow men.

Amen

Senator Brown led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession

of the Clerk, Senate Bills 159-164 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 159, to implement a special state referendum with respect to state revenue sources and making an appropriation therefor. (Monier of Dist. 9; Provost of Dist. 18; Sanborn of Dist. 17; McLaughlin of Dist. 13; Bossie of Dist. 20; Brown of Dist. 19; Rock of Dist. 12; Lamontagne of Dist. 1; Bergeron of Dist. 6—To Executive Departments, Municipal and County Government)

SB 160, prohibiting an on-sale permit and liquor license under certain conditions. (Smith of Dist. 3—To Ways and Means)

SB 161, making a supplemental appropriation to the department of administration and control. (Saggiotes of Dist. 8—To Finance)

SB 162, relative to the number of sets of special number plates that may be issued to a member of the general court. (Rock of Dist. 12; McLaughlin of Dist. 13—To Rules and Resolutions)

SB 163, relative to the fee for the renewal of land surveyors' certificates of registration. (Downing of Dist. 22—To Administrative Affairs)

SB 164, to amend the charter of St. Mary's-in-the-Mountains. (Poulsen of Dist. 2—To Education)

ENROLLED BILLS REPORT

HB 43, relative to the service tax exemptions for real estate taxes.

HB 106, relative to the appointment of medical referees by county commissioners.

HB 170, relative to property tax exemptions for certain disabled servicemen.

HB 271, relative to the proper display of the state and national flags.

HB 425, making a special appropriation for moving the de-

partment of safety from the John O. Morton building and other locations to the James H. Hayes safety building.

Senator Lamontagne for the committee.

COMMITTEE REPORTS

HB 259, establishing the ladybug as the state insect of New Hampshire. Ought to pass. Senator Hancock for the committee.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Rock moved that the rules of the Senate be so far suspended as to allow HB 259 be placed on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

HB 259, an act establishing the ladybug as the State insect of New Hampshire.

Adopted.

SB 102, relative to an adult tutorial program and making an appropriation therefor. Ought to pass. Senator Smith for the committee.

Adopted. Ordered to third reading.

Senator Rock moved that the Senate adopt the joint rules for the 1977 session.

Senator Monier moved to amend the proposed joint rules.

Senator Downing moved to divide the question.

Adopted.

Senator Monier moved to amend Rule 11.

Senator Downing moved to lay the joint rules and proposed changes on the table.

Adopted.

PARLIAMENTARY RULING BY THE CHAIR

The Chair has examined the questions raised by the recall of HB 236. The Chair finds no fault with the action of recall. Abundant precedents on the question of recall exist within previous Senate Journals and there are no challenges to these actions. Furthermore, the action to recall has several precedents within the national Congress. In all instances which I have discovered, the recall action required only a majority vote, even where the motion for reconsideration has taken place and failed.

There has been some fear expressed that the negative action on the motion to reconsider could be side-stepped by a recall motion used to subvert. However, that is not possible. All precedents confirm two points: first, that once a bill has left the possession of the Senate and gone either to the executive officer or to the other legislative house, the Senate has lost control over the bill, and; second, recall can only take place if the executive officer or the other house permits the bill to return. Every precedent in *Hind's* confirms this. The common practice has been that if the Congress wishes to have a bill recalled, it then adopts a resolution requesting the President to return it. It is clear that recall cannot be on the sole initiative of the Senate. In the instance of HB 236, the Governor allowed the bill to be returned to the Senate. Thus, its return is valid and can be placed on a second reading stance, once the motion to recall has been adopted.

As to the question of quorum, no quorum was called for. The invariable practice of all legislative bodies is that a quorum is deemed present, except under those circumstances where a quorum call has established that a quorum is not present. The Chair has been present on many occasions where Senate business, especially of the procedural nature, is conducted where fewer than 13 members are present. The Chair has also found the same practice in the U. S. Senate.

As to the question of the gentlemen's agreement, the Chair finds no evidence that the action of recall was taken for any malicious purpose and furthermore, the action taken did not substantially interfere with representative authority of any Senator. In the view of the Chair, the protests offered were not designed for the better management of public affairs, but

for nonlegislative purposes. On the other hand, the action of recall seems eminently designed to forward a legitimate public purpose. The Chair rules that the motion to recall was in order. If taken from the table by a majority vote, further action can take place on HB 236. Such shall be the ruling unless otherwise ordered by the Senate.

Senator Smith moved that HB 236 be taken from the table.

Adopted.

HB 236, relative to the student trustee in the state university system.

Senator Smith moved that HB 236 be placed on second reading at the present time.

Sen. ROCK: Many other states have yet to adopt this procedure for allowing students to have a voice in the operation of a university system. Secondly, we have also been in the forefront in the magnitud of the body that makes up the Board of Trustees.

We indeed have now the largest board of trustees of any land grant college in the United States. University systems with two and three times the number of students on their campus have up to one third the number of trustees governing those institutions that we have in New Hampshire.

So it was my feeling, originally, that we move slowly in changing a law that had been recently introduced in our State and which in many other states had yet to be even think of. I think I must also add one footnote to those two underlying reasons for my opposition and that footnote is that in New Hampshire, we have had over the past decade at least as good student representation from the student members who are observers and not members of the board of trustees as indeed we have had from the student trustee representatives themselves.

I have made this point to the faculty on many occasions that they, as observers, are participants and oftentimes have more influence and greater bearing on the thinking of the trustees than would a fellow trustee in his deliberations.

On the other hand, I know how hard Representative Lesard has worked. I know how much of himself and his own

emotions he has put into this bill. I have seen nothing wrong with the members of the board of trustees who were the student representatives as they had been appointed by Governors Peterson and Thomson, who were the only Governors to have the opportunity to appoint student trustees, to show you how recent this law is.

But since we have been in the forefront of putting student trustees on the board, I am willing at this time to acquiesce to this request that the students themselves have a voice in nominating their representative.

This flies in the face of the other side of the statutes which state that we must have a representative who is there on the board of trustees representing the farmer interests in the State of New Hampshire, and yet we do not allow the farmers who by statute must have representation to elect their representative. Perhaps that is a way we should consider in the future. Perhaps we should also consider the faculty who would have representation and the faculty would be allowed to represent their representatives and if we consider that we continue to expand the University System and give full recognition to the Merrimack Valley Branch and the School of Continuing Studies, we might someday hold the Board of Trustees meetings on the other side of the hall where there are 400 seats able to accomplish and accommodate everyone.

I will support the motion.

Sen. PRESTON: I am going to support the amendment as presented by Senator Smith. I was here on that Thursday that has been spoken so often about and out of due respect to the sponsor and the students who are so concerned, I did support the motion to recall.

I personally, if I had been in their position—what I thought seemed to be an atmosphere of intimidation I viewed what they did as an act of capitulation. I would have taken my chances and placed my faith in the Senate and House to override what I thought was a perfectly good bill but I understand their concern. They worked hard for this and I will support it.

Sen. HANCOCK: I also support the amendment, Mr. President, as one of the few—or maybe, as the only graduate—of the University of New Hampshire in this body. I think it is imperative that we give this opportunity to the students to make their own selection.

Adopted.

Senator Smith moved the following amendment.

Amendment to HB 236

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Trustee to be Rotated Among 3 Schools. Amend RSA 187:5, III (supp) as amended by striking out said paragraph and inserting in place thereof the following:

III. One member shall be a student enrolled at the New Hampshire college of agriculture and the mechanic arts of the university of New Hampshire, Keene state college or Plymouth state college. The office of student trustee shall be rotated among the 3 schools in the order in which they are listed. The student caucus of the New Hampshire college of agriculture and mechanic arts of the university of New Hampshire, the student selectmen of Keene state college, or the student senate of Plymouth state college, when that school is responsible for providing the trustee in any year, shall by March 1 of that year submit to the governor a list of 5 students at that institution. Two of these 5 student nominees shall be graduates of a New Hampshire secondary school. From this list of 5 student nominees, the governor with the advice and consent of the council shall appoint a trustee by May 1. The student trustee's term shall be for one year commencing June 1 of that year and ending May 31 of the next year. Such term is contingent upon the student trustee's continued enrollment as a student at said school. In the event a student trustee ceases to be a student at said school for any reason, the next school in order shall as soon as possible submit a list of 5 student nominees and the governor with the advice and consent of the council shall appoint one who shall serve for the remainder of his predecessor's term plus one year.

2 Transitional Period. Nothing contained in this act shall prevent the current student trustee from completing her term under RSA 187:5, III prior to its amendment by section 1 of this act if she does not cease to be a student for any reason other than graduation. By March 1 of the year in which she is scheduled to graduate, if she has not previously ceased to be a student, the next school in the rotation shall proceed as pro-

vided for in this act and thenceforward the provisions of this act shall control the selection and term of the student trustee in the state university system.

3 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Smith moved that the rules of the Senate be so far suspended as to allow HB 236 be placed on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

HB 236, an act relative to a student trustee in the state university system.

Adopted.

Senator Smith moved reconsideration.
Motion failed.

HB 104, an act providing for the disposal of certain fish, game, fur-bearing animals and marine species. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: HB 104 was introduced by Rep. Smith of Merrimack. It is a bill which clarifies the method of the disposal of any fish or game or fur-bearing animals or marine species which are confiscated. At the present time when any animal is confiscated it is within the policy of the Fish and Game Department to give the meat of the animal to a needy family in the town where the accident occurs or else give it to an institution.

However, there is no clear direction as far as the actual law is concerned. So this legislation would give the Fish and Game Director the authority to dispose of the animal. The Fish and Game officers would be given guidelines to follow.

With the price of meat and fish so high, it seems wrong that animals and fish which have been confiscated should not be

put to a good use in the areas where needed. This refers in large measure to deer which have been hit by cars as well as illegal catches of fish.

Small fur-bearing animals, such as porcupines, raccoons, opossums, hedgehogs, and so forth, which have been hit by vehicles and left along the highways are still the problem of the Highway Department whose duty it is to keep the highways and land off the highways clean and clear of such debris.

There was no opposition to the bill. There was Representative Baker, who wished to make an amendment to the bill. However, it was decided by the Committee that we would sponsor a bill to take his amendment into consideration.

So therefore, this was passed.

Adopted. Ordered to third reading.

SB 93, clarifying the legislative intent to which the state shall assume contractual obligations for the design of municipal sewage disposal system. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, this, in a way, is a house-keeping kind of thing. A question arose on the existing law as to whether or not the State was obligated on one of these disposal systems where the State had not been made a party to the contract. The case was, I guess, brought to court and the state was successful but the state wants to put the issue to rest so all this bill is doing is making it absolutely clear in the law that unless the locality gets the State to co-sign—in other words, agree to the disposal system, that the State will not be obligated for that system financially.

Adopted. Ordered to third reading.

HB 172, permitting tax collectors to use automatic or electronic data processing in certain cases. Ought to pass. Senator Monier for the committee.

Sen. MONIER: HB 172 was one which had been in the Senate and had been recommitted because there was a question with respect to the electronic equipment—whether there was a bill or any statute that required it. We immediately asked for and received the cooperation from the Revenue

Administration Department and determined that the purpose of this bill that is now with us with an "ought to pass", and I urge its passage, was frankly that there is no statute that states that it is all right to do this and while we would automatically think then that the court—the towns would be authorized to do it.

The truth of the matter is , there have been several court rulings that have indicated that the original warrants were not included and that the original tax lists were not included when they did something in regard to posting, and this is most important, posting the receipt—and as a result of that, they want this permission to be able to reproduce this type of information rather than doing it by hand and having an original and the arguments were accepted by the committee and I think unanimously agreed to and therefore, we now ask that this be passed.

Sen. ROCK: Under the analysis, Senator, it says the bill specifically authorizes the tax collectors to use electronic data processing equipment for keeping tax records. Could you assure me for the Legislative Intent that you are not mandating that they use—but are merely allowing them to use it, if they so desire?

Sen. MONIER: That is correct. For the record, that was exactly the reason we recommitted to check on it and the answer is that they probably can do it now but there have been some court decisions that have shown that when they do this they, in a sense, are reproducing the tax credit list and the ruling was that the originals were not included with it, etcetra, and therefore, they were thrown out.

So what we are now saying is that if they want to, they may use electronic data.

Sen. ROCK: Would the record show that the Senator from the 12th District voted for the Bednar-Price bill.

Adopted. Ordered to third reading.
(Sen. Rock recorded in favor of the bill.)

SB 113, relative to providing for a master plan for state land use in the City of Concord. Ought to pass. Senator Monier for the committee.

Sen. MONIER: This is a bill that came before our committee. It had a full hearing. There were numerous people pre-

sent. There was no one in opposition. I agreed to report out the bill for the sponsor, who also happens to be on a committee and who graciously refrained from taking part in the committee decisions on this matter.

To be frank with you, this is not an appropriation because the moneys are already in hand with the Office Space Study Committee and as a result, there is no appropriation or financing concerned with it. What this does is, it states that the Office Space Study Committee may use \$50,000 of the finds they now have on hand for this purpose and others to go ahead and lay out a master plan for the City of Concord with relationship to all of the state buildings, etcetra, to bring them into line and compromise with the zoning and so forth.

One of the questions concerned with me and brought up at the committee and several members answered this question, and I would like it on the record, this in no way inhibits that same committee or any other committee from studying the use of state buildings or the use of new lands or the development of new state buildings somewhere outside of Concord.

It is not mandatory—to the effect that it should not be moved or couldn't be moved or there was no relationship to those two things. With that in mind, I urge the passage of the bill.

Sen. JACOBSON: The Chair understands that there is no appropriation and it is just a transfer of funds from one account to another and therefore would not fall under Rule #29.

Sen. TROWBRIDGE: I believe that there is something financially we would like to put on this bill that has to do with soft matches from the City of Concord and anytime that money hasn't been appropriated, it would never go anywhere else unless we reappropriated under this bill. So that is an appropriation fund.

Sen. MONIER: May I ask a question for clarification? The reason I made that statement is that I assumed it was an appropriated fund already and, therefore, is a matter of transfer. Now, what is it that is different, just so I am aware of this?

Sen. TROWBRIDGE: The rule states that any bill appropriating funds goes to Finance. This is an appropriation of funds because they are not out there reappropriating it for another purpose. We have this all the time with all the old capital budgets where you have some left over and you try to switch the residue left in the capital budget for another pur-

pose. They all go to Finance. We keep track of them. That is the only way we do keep track of them.

Doug Christensen, everybody down there watching. So, I must say, I would put my arm out on this and anything like that. otherwise, you will find something going through and you don't have it.

Sen. MONIER: I would like to retract my statement because I made the statement in good faith. It wasn't already an appropriation, that is why I made it.

Sen. BROWN:(Of Senator Trowbridge) If you recall the 75 budget, we appropriated \$100,000 for state. It was originally \$1.8 million. We put it out to \$1,000,000. What you are stating here is to change the purposes from "state" to "city", is that correct?

Sen. TROWBRIDGE: State—city—Office Space—tried a different thing.

Sen. BROWN: The Office Space also?

Sen. TROWBRIDGE: The whole thing of the bill—113—is entirely different than the original \$100,000 that we appropriated, which really had—part of it was to go to see whether there was going to be a new capital building somewhere else outside of Concord. So this is an entirely different appropriation, but the use of the funds is entirely different. When you changed use, you are really appropriating.

Sen. HANCOCK: As I recall, in reading the legislation, Mr. President, it does provide for land use or land use studies. Is that correct?

Sen. TROWBRIDGE: Yes, but it doesn't apply. The way they were on 113—if there were no changes of use, you wouldn't need the legislation, by definition.

Sen. HANCOCK: May I make a comment? In relation to Senator Trowbridge's earlier allusion, it will also be a commitment on the part of the City of Concord and we have the assurance of the Mayor and City Manager that there will be soft match from the City of Concord on behalf of its planning department, building department and police department, whatever necessary, in order to put the master plan together.

Referred to finance.

HB 84, relative to temporary loans issued under the municipal finance act. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to HB 84

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Temporary Loans; Municipal Finance Act. Amend RSA 33:7-a (supp) as inserted by 1957, 89:1 as amended by striking out said section and inserting in place thereof the following:

33:7-a Temporary Loans. If a municipality votes to issue bonds or serial notes in accordance with this chapter, or when bonds have been authorized by a county convention, and in the opinion of the commissioner of revenue administration, evidenced by a certificate signed by him, such action was in accordance with the provisions of law in all respects, the officers authorized to issue the same may, in the name of the municipality, or county, make a temporary loan or loans in anticipation of the money to be derived from the sale of such bonds or notes and may issue temporary notes therefor from time to time which are payable not later than 2 years from their respective dates of issue. Temporary notes issued for a period of less than 2 years may be renewed or paid from time to time by the issue of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the same debt shall not exceed 2 years. When a temporary loan is made in anticipation of an issue of bonds or serial notes, the periods within which annual payments of an equivalent amount of the principal of such bonds or serial notes must commence and end under this chapter shall be measured from the date of the original note or notes representing such temporary loan, except that such annual payments need not commence less than one year after the date of such bonds or serial notes.

Sen. POULSEN: Mr. President, on page 12 of the calendar, the amendment is actually the bill. The bill itself was made in the form of an amendment. The amendment changes very little except its last line or two, which concerns itself with a two-year period during which these temporary loans may be made.

To ensure it was acceptable, we had a conference with the bond counsel from Massachusetts. As it is written now, the bond counsel—and I think everyone agrees with the bond counsel and everyone else.

Amendment adopted. Ordered to third reading.

SB 70, relative to the appointment and duties of the New Hampshire retirement system trustees. Ought to pass with amendment. Senator Trowbridge for the committee.

Amendment to SB 70

Amend the bill by striking out sections 2, 3, and 4 and inserting in place thereof the following:

2 Retirement Board; Executive Secretary Position Established. Amend RSA 100-A:14, V (supp) by striking out said paragraph and inserting in place thereof the following:

V. The board of trustees may employ such classified employees as may be necessary. It may also engage such actuarial, medical, and like services as may be required to transact the business of the system. The compensation for such special services, and all other expenses of the board necessary, hereto, shall be paid at such rates and in such amounts as the board shall approve.

3 Notice of Legislation Relative to Retirement System to be Given by Executive Secretary. Amend RSA 100-A:14, XII as inserted by 1974, 40:74 by striking out said paragraph and inserting in place thereof the following:

XII. The executive secretary appointed pursuant to RSA 100-A:43 shall notify the selectmen of all towns, all city councils, and the superintendent or chief fiscal officer of all school districts within 10 days of the introduction and within 30 days of the enactment of any legislative measure relative to the retirement systems which would affect the retirement system costs to cities, towns and school districts. For the purposes of this paragraph, "legislative measure" shall mean any bill or joint resolution introduced in either the senate or the house of representatives but shall not include amendments to bills or joint resolutions.

4 Amend RSA 94:1-a (supp) as inserted by 1969, 500:12 as amended by striking out the line reading

"Assistant state treasurer	13,228	15,389"
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and inserting in appropriate alphabetical order the following:
(Executive secretary, New Hampshire retirement system

	17,000	20,000)
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Amend the bill by striking out section 10 and inserting in place thereof the following:

10 Executive Secretary, Retirement System. Amend RSA 100-A by inserting after section 42 the following new subdivision:

Executive Secretary

100-A:43 Appointment; Removal. The board of trustees of the retirement system shall appoint an executive secretary who shall hold office during good behavior. The board may remove the executive secretary for cause.

100-A:44 Oath; Bond. Before entering upon the duties of the office, the executive secretary shall be sworn, and shall give bond to the state in the sum of \$20,000, with sufficient sureties to be approved by the board, conditioned for the faithful discharge of the duties of the office. The bond shall be filed and preserved in the office of the secretary of state.

100-A:45 Duties. The executive secretary shall be in charge of the office of the board of trustees of the retirement system under the direction of the board. He shall perform such other duties as may be assigned to him by the board.

11 Assistant State Treasurer as Executive Secretary. Notwithstanding the provisions of RSA 100-A:43 as inserted by section 10 of this act, the assistant state treasurer in office on the effective date of this act shall become on the effective date of this act the executive secretary of the board of trustees of the New Hampshire Retirement System.

12 Appropriation. There is hereby appropriated, for the purposes of section 4 of this act, the amount of \$400 for fiscal year 1977, said amount to be a charge against the salary adjustment fund.

13 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: I move the amendment which is in the calendar on page 11—HB 70 was offered by Bob Flanders who, as Treasurer for the State of New Hampshire, has for years been the operative person—the final write-off person—on the Retirement System. And he has petitioned that his duties are sufficient that he does not want to really have to go to all the Retirement Boards. He has enough to do.

Mr. Descoteau, who is the Assistant Treasurer, really handles the Retirement System—not from the investment point of

view, but from the taking care of all the benefits and all questions of members of the retirement system, etcetra.

So it was unanimously agreed that they would set up a position of Executive Secretary of the Retirement System. He would move over from Assistant Treasurer and would take over and in place of the Treasurer.

Most of the references in **SB 70** refer to removing the Treasurer from the statutes and putting in place thereof the name of the Executive Secretary of Retirement. However, in the original drafting, they forgot to put back in the duties of the Executive Secretary—or the Treasurer—in that order. And so, the amendment was drafted by the Legislative Budget Assistant's Office and Legislative Services, which shows exactly what and how he is appointed, how he is removed, and what his duties are and his salary.

So that is what is in the amendment—to the bonding, all of those nitty-gritties just happened to be in there. That is what the amendment is. The other part of the bill is simply changing over who is going to run the Retirement System.

Sen. BERGERON: As I understood your explanation of the amendment, what you have done here is you have taken an individual, properly classified him to the right job description. He is now under the new classification going to be doing the same identical job that he has been doing in the past?

Sen. TROWBRIDGE: He is taking full responsibility. However, he is going up in grade. The Treasurer was the final authority as far as the execution of the Retirement System. He is going out. The former Assistant Treasurer is moving up to what we call the Executive Secretary of the Retirement Board. So he is taking on the final responsibility for all that work.

Sen. BERGERON: And that is a justification for the change in salary scale?

Sen. TROWBRIDGE: Not only that, Mr Descoteau is managing about \$8,000,000 per year in benefits and sits on top of \$175,000,000 worth of assets of the State Retirement System and he moved up four or five years ago to the top of his grade at \$15,389 and for some time we have all been aware that there was an enormous inequity in the work that he does and the responsibilities he has as compared to other people.

So it has been acknowledged that he is underpaid and that—especially with this shift of responsibility—that is where

we are picking the figure. I discussed with Mr. Flanders and other people the salary of \$17,220.

Sen. BERGERON: Evidently, in your opinion, you don't feel that this position is something that should be encompassed in the over-all study of the classified people?

Sen. TROWBRIDGE: I do. It was encompassed in that. The only problem is, we went to the Governor with the classified thing with everybody and his idea was that he was going to take all those unclassified people and put them into his budget, if you recall, and he did not.

So, like anything else, there is, by legislation, all the unclassified salaries—are done by legislation. And here is one where you have a shift of duties of a guy who is well-known, who is doing a great job, and at that point, the Senate Finance Committee is recommending that his salary be raised for the first time in four years.

He is unclassified. Don't get it wrong.

Amendment adopted. Ordered to third reading.

HB 120, making a supplemental appropriation for the board of registration for professional engineers. Ought to pass. Senator Blaisdell for the committee.

Sen. BLAISDELL: It provides for the supplemental appropriation of \$4,330 to the Board of Engineers to continue operations for fiscal year 77. The Senate Finance Committee heard this and listened to the reason for it and more examinations will be given, partly due to a 1975 change in the law and partly due to more engineering students applying.

One additional proctor is required to supervise the greater number of examinations and these together with the increase in number of applications require more board meetings and more clerical time to process these applications.

Now, there is another bill following this. HB 60, which will increase the fees, so the Senate Finance Committee has asked that you pass this.

Sen. MONIER: I have an amendment to HB 120 and I think it has been passed out to each member of the Senate. I think the clerk—am I right?—has the proper copies, and I would like to speak to that amendment.

Senator Monier moved the following amendment.

Amendment to HB 120

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

making supplemental appropriations to the board of engineers and the office of health planning and development

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Supplemental Appropriation To The Office of Health Planning and Development. In addition to any other sums appropriated, the sum of \$27,005 is hereby appropriated to the Office of Health Planning and Development to be expended as follows:

Office of health planning and development	Fiscal 1977
Current expenses	\$7,648
Other personal services	16,578
Benefits	1,824
In-state travel	418
Out-of-state travel	537
Total	<hr/> \$27,005 <hr/>
Estimated source of funds:	
Federal funds	\$20,254
General funds	6,751
Total	<hr/> \$27,005 <hr/>

In the event the federal funds received are less than estimated then the total appropriation shall be reduced by the amount of reduction in federal estimates and the applicable state matching funds.

3 Effective Date. This act shall take effect upon its passage.

In 1975, the session of the General Court was advised that the old State Comprehensive Health Planning Agency would

be phased out by public law 93-641—which was the federal law—this amendment which the Legislative Budget Assistant, through the Finance—Senator Trowbridge assisted in preparing—and I appreciate it very much—asked for \$6,751 of state funds and it generates \$20,254 of federal funds, for a total of \$27,005.

In this particular amendment, we have spelled out exactly what the budget expenditures are so there are no questions to what they are. The total amount here is the necessary thing to carry the new agency, which has been established under the new public law of the federal—PL93-641—from now until July, at which time it will be in a regular budget and would be underneath whatever—the law is passed, or would remain under the Executive Order that it now is.

The State submitted an application to HEW, as required by the federal law, which was approved and funded for health planning purposes and the Governor drew upon the funds of his office to provide \$9,506 to fund the activity for the first four months of operation. This particular state funding of \$6,751 is to continue that eligibility until—from Thursday, April 7 until the end of the fiscal year. In the event this activity was not to be continued and this is the danger of it, New Hampshire would lose about \$137,000 in federal funds for health planning in the present year and \$200,000 the following.

If our state fails to operate this program at the end of FY79, we would lose all of it and that is not a danger because there is legislation now to cover that.

The truth of the matter is that this particular agency has operated under moneys from outside of the state and our budget for this year had a footnote which phased out the Office of Comprehensive Health Planning and stated within it that the new agency should have the transfer of funds but the transfer of funds was not in the fund with the new federal law to take care of the necessary activity and so what we are asking for here is emergency funding from the state of \$6,751 although the budget that we have made up for you is the full total of what that does with the federal funds and I ask your assistance in this matter so we may process this through.

Amendment adopted. Ordered to third reading.

HB 60, relating to registration and examination fees for

professional engineers. Ought to pass. Senator Blaisdell for the committee.

Sen. BLAISDELL: HB 60 increases fees charged for registering and examining professional engineers. The present fee for examining fundamental engineering subjects would be raised from \$10 to \$15. The basic registration fee would be raised from \$40 to \$50 and the fee for reinstating a lapsed registration would be increased from \$20 to \$25. The secretary treasurer of this board estimates this will increase the revenue by \$3,300 in FY78 and \$3,400 in FY79.

The Board Chairman testified that engineers do not object to paying higher fees as long as the Board functions and provides the functions it is supposed to. The Finance Committee asks you to endorse it.

Adopted. Ordered to third reading.

SB 84, authorizing the limited police powers to title investigators, fire investigators and licensing officers of the department of safety. Ought to pass with amendment. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, as you perhaps would recall, this bill is the exact bill that came before the Legislature two years ago and which we killed and I had an effort of killing it at that time. What happened this year is they said "well, we agreed on a formula to do this so that the people such as the secretaries in the offices of the Department of Safety would not act as police officers". So they said they did this but when, lo and behold, when they came before the committee, the bill was the same one as two years ago. So we have had one battle royal over it and we came up with an agreement.

The agreement is on page 10. The purpose of the bill is good. It is to allow the Division of Safety to appoint certain people to act as police officials in title matters and also in regards to arson matters.

The Judiciary Committee's position is that this is fine, but we want to be very particular to whom we give this power. So at the end, the last sentence on page 10, is what we restricted to—"This police power shall not include the authority to direct and control traffic"—so they are not going to be traffic cops. "The authority to carry concealed weapons without a

permit not any authority to enforce provisions of RSA262a''. 262a is the provision with regards to drunk drivers, with regards to driving offenses. So basically, they would have—strictly—these powers that we grant them with the regards to the fire marshall, the deputy fire marshall and, for instance, the title examiners quite often stop cars along the roads for the purpose of finding stolen cars.

Well, if they find a stolen car, they have now power right there. What they have to do is call in a local police official. So we think with the amendment the bill would be good and without the amendment, it would be a bad bill. We ask you to adopt it.

Sen. TROWBRIDGE: For the record. Since these are very limited duties, your committee would not be saying that these are full policemen who would be entitled to get into Group II of the New Hampshire Retirement System.

Sen. BOSSIE: You are right. These are not intended to be full-time policemen who would be qualified to be in that system.

Senator Lamontagne moved that **SB 84**, be made a special order for Tuesday, April 12 at 2:02 p.m.

Sen. BOSSIE: I would favor the motion of the Senator and would like to assure him that Earl Sweeney and I got together on this and it was Earl Sweeney's actual penmanship that drafted this. So, we would welcome the review of it by Mr. Flynn and by Mr. Sweeney again, with the Senate.

Sen. LAMONTAGNE: To answer the comment made, I appreciate your giving me the opportunity but at the same time the reason why I said it was a good cause is that I was very interested in this bill—and I still want to make sure that the amendment does what I want. In Berlin, we had a fire and this happened four months ago, and we feel sure that the fire had been set. It took the police department three and a half months before they made an arrest.

After an individual had been burned and hospitalized for that burn, therefore, if the fire marshall—the investigators—would have had the opportunity of having the arrest, this man would have been arrested a long time ago and that is why I want to make sure that this is going to do what I am looking for.

Adopted.

HB 137, requiring permission from the trap owner before a duly licensed trapper may tend another trapper's traps. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill says that in the event of an emergency, you may give written authorization to another trapper to attend his traps as they must be checked every 24 hours.

Adopted. Ordered to third reading.

HB 166, relative to the limited openings of smelt brooks to the handicapped. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill permits the Director of Fish and Game to open smelt brooks for fishing by the physically handicapped and had the support of the Fish and Game Chief Fisheries, Mr. Seamans. There was no opposition whatsoever.

Adopted. Ordered to third reading.

HB 186, providing for seasons and bag limits on snowshoe hares and cottontail rabbits and defining small game. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: A very timely bill—the Easter season being here—the cottontail population is decreasing, so they have established a limit of thirty.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Rock moved that the Rules of the Senate be so far suspended as to allow the introduction of a committee report on HCR 5 not previously advertised in the Journal.

Adopted.

HCR 5, establishing a legislative committee to plan for a

reenactment of the Battle of Bennington. Ought to pass. Senator Rock for the committee.

Sen. ROCK: HCR 5—The House Concurrent Resolution #5 has to do with the historic Battle of Bennington. This is, if you will allow the pun, the last “blast” of the bicentennial battles. The resolution allows for the formation and reenactment of troops to move to Bennington in August of this year, representing the New Hampshire troops, which were the largest contingent in that battle.

As it was told to us at the committee hearing, if it were not for the 900 New Hampshire troops who far outnumbered the Vermont troops and the troops from the other colonies, there perhaps would not be a Bennington, Vermont, today.

It is planned that this committee will meet and they will formulate with about 75 members of the Legislature who will, in appropriate dress of the era, meet at Exeter on July 9th and formally vote, as did the Legislature in that pre-revolutionary period, to send troops to Bennington, Vermont, for that battle.

It is also planned that the troops will, by motor-car and march over a period of about a week, move through the southern part of New Hampshire on to Bennington, where the battle itself will be reenacted.

The reason I have asked for a suspension of the rules is that the first meeting of the group is taking place on April 15th and it would be helpful if this House Concurrent Resolution were adopted and passed prior to that date so that it could have full legislative blessing of both the House and Senate.

Sen. SMITH: Due to the fact that there was no Senate, do you think it would be a chance for the Senate to take the part of the Red-Coats?

Sen. ROCK: I would ordinarily, Senator, but we know what the outcome of the battle was and I don't think we want to face that fate.

I think we have said all that needs to be said on the Resolution and I move that the adoption take place at this time.

Adopted.

VACATE

Senator Rock moved to vacate **SB 152**, relative to products

liability actions, from the committee on Energy and Consumer Affairs to the Committee on Insurance.

Sen. ROCK: As sponsor of this bill, I was somewhat concerned that it be sent to a committee that I believe would more aptly deal with the context of the body and scope of the limits of the bill.

It truly—and I believe sincerely—belongs with the Insurance Committee. It has to do with product liability. We all know that there are many areas in the state—professions and otherwise—which are facing extreme difficulties of obtaining product liability insurance and my feeling is that the background of that committee would better serve the full deliberation of this bill. I had hoped that we could have additional copies of the bill before you but they are not yet printed. They are not available to the Senate information room. I have one of the original copies of the LSR and I hope the Senate would concur with the sponsor that this would be assigned to the Insurance Committee rather than to the Consumer and Energy Affairs.

Senator Bossie moved to amend Senator Rock's motion so that **SB 152** be committed to the joint committees of Energy and Consumer Affairs and Insurance.

Sen. BOSSIE: I would like to speak of that. I am the Chairman of the Committee on Consumer Affairs and to whom the bill was originally referred. Initially, I had nothing to do nor have ever spoken to anybody about this particular bill. It just came to our committee and we are pleased to do it.

Certainly, many other states have this no-fault insurance and things of that nature do come before a consumer affairs committee because, supposedly, this committee is concerned primarily with the consumer and its affect on him.

At the same time, I noticed Mr. Gross, who I believe is the author of the bill here in the room and obviously he has some interest in this motion before us today. To be fair to the sponsor of the bill, one of whom is Senator Rock. I would have no objection to vacating it to the joint committee. He is a member of the Insurance Committee and so am I. I am also on the Consumer Affairs. I don't think we should vacate it strictly to Insurance under the circumstances where, initially, it had

come to my committee, so we would ask you to support my motion.

Sen. BERGERON: Mr. President, I rise in opposition to Senator Bossie's motion. The matter simply being that as the Senator pointed out, he is a member of the Insurance Committee. I would like to point out for the edification of the members of the Senate that the reason for the bill is primarily and solely due to the fact that insurance coverages cannot be purchased in a lot of instances here in the state of New Hampshire.

The bill was drafted primarily through the offices of Attorney Gross, which you mentioned, but I think we have to look at who asked him to sponsor the bill. I am sure you people are aware of the AIA—that is the American Insurance Alliance—I am sure that you are aware of the AIMA—which is the American Mutual Insurance Alliance—these are the people that are sponsoring the bill. If that is not insurance, Senator, I don't recognize it.

Senator Bossie requested a roll call. Seconded by Senator Lamontagne.

The following senators voted yea: Bradley, Trowbridge, Keeney, Hancock, Healy, Bossie, Fennelly, Preston and Foley.

The following senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bergeron, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Sanborn, Provost, Brown.

9 yeas 13 nays

Amendment failed.

Senator Rock moved the previous question.

Adopted.

Motion to vacate. Adopted.

(Senator Saggiotes in the chair)

HB 82, relative to the surnames of spouses after marriage.

Senator Bossie moved to make HB 82 a special order at 2:01 p.m. on Tuesday, April 19.

Adopted.

SB 4, establishing a board of claims for the state and making an appropriation therefor.

Senator Trowbridge moved to make **SB 4** a special order at 1:01 p.m. Thursday, April 14.

Sen. HEALEY: A question of Senator Trowbridge—an inquiry. Could you tell me by being a prominent member of the Finance Committee your knowledge of finances, what is the status of our spending today with this current fiscal year?

Sen. TROWBRIDGE: What we have spent in specials, do you mean? Or is this looking forward?

Sen. HEALEY: Let's put it in general terminology. What is the status of the State of New Hampshire today in budgetary spending? How do we stand?

Sen. TROWBRIDGE: If you are talking about fiscal year 1977, which is the year we are in, that is one thing. If you are talking about looking forward to the next two years, that is another. Which are you talking about?

Sen. HEALEY: The ending as of this year, which would be FY76, wouldn't it?

Sen. TROWBRIDGE: 77.

Sen. HEALEY: What is our status as of July—June 30th?

Sen. TROWBRIDGE: As we go down the pike here, we put in the ABC controls and it was estimated that there would be somewhere around \$1,000,000 deficit this year. No matter how you strike it, it is \$1,500,000 this year of deficit.

Now you may be asking how we can pass bills for expenditures when we have a deficit? That would be a very logical question. These small bills, which keep someone going until June 30th when you can deal with a new budget are the only way we know of, let's say, to keep the professional engineers going.

We did pass the bill so they raise their fee, so that in turn will bring more money back.

Sen. HEALEY: Can you tell me—since you tell me right now that you consider—there is a deficit—we are still operating. Are we not operating on deficit spending?

Sen. TROWBRIDGE: Yes, we are.

Sen. HEALEY: Awhile ago I was informed that there is no such thing as deficit spending under our budget.

Sen. TROWBRIDGE: That is a different thing, Senator. It is one thing to make your estimates of revenue of what we do for the budget—your estimate of spending, and you come in and you think they are in line. You believe honestly that the two will balance. If we were to come in with a budget beginning next year and we knew that there was a \$2,000,000 deficit to begin with—that is what we can't budget for but when we find that there is a shortfall in revenue after we have made the budget, we are allowed to work our way out of that until we pass the new budget which should take that deficit into consideration when it goes forward.

Sen. HEALEY: Doesn't this complicate very much the facts. Will this cause us to come up with more revenue than was anticipated for the current spending project and the next budget will even have to go further and add to the payments of this deficit spending?

Sen. TROWBRIDGE: Yes.

Sen. HEALEY: In other words, we have to come up with a pretty strong budget for the next two years.

Sen. TROWBRIDGE: Out of what you have to come up with, Senator Healey, the deficit of this year is one of the least of our problems. You are going to have to come up with \$51,000,000 one way or another. This is one out of 51, so that is why I don't think anybody is shaking their heads saying that is our only problem.

Sen. HEALEY: That is why, Senator, awhile back, when the amendment was brought up by Senator Monier, I think that Senator Monier's thoughts on that particular motion were pretty good. What is your thinking about that? Again, in simple terminology—good or bad?

Sen. TROWBRIDGE: I am not sure of what you are talking.

Sen. HEALEY: The amendment he had was asking for recalling the bills.

Sen. TROWBRIDGE: 120—what he was offering was an amendment because the professional engineers—the Comprehensive Health Planning was not budgeted through to the end of the year. I think you have to recognize, Senator Healey, that something as varied as a thing called the State of New Hampshire, there are bits and pieces you have to put together and you can't plan everything as things happen and fall and that is the job of the Legislature to put it back together again as best we can.

Sen. HEALEY: You consider the puzzle a pretty difficult one?

Sen. TROWBRIDGE: Yes, it is, and in response to that, I think it is very clear that as we go down the pike there is nothing coming on the revenue horizon that is any better news than what I reported last time.

In other words, the liquor revenue, racing revenue—everything else—are at the lower levels where we reported them and our spending—I hope that the controls we put—the ABC controls—are going to do the job, but there are an awful lot of exceptions to those controls.

Therefore, just the pressure of the agencies getting their exceptions from the Governor—not from us—will be that we are spending more than we are budgeted.

Sen. Healey: To speak. In reference to hearings that come along whether they are from the House or the Senate, one thing that has bothered me is bills that are coming in for hearings and the people who really should know about these hearings are not informed about them. For example, the other day we had a hearing on a measure that one person had to fly in from Maryland overnight to expound on his side of the question at the hearing.

Now, I would think that where hearings are coming up, people living out of the state—or even in the state—especially where property lines have gone and that they should be informed in advance that these hearings are coming up so that they can have their say.

At this particular hearing, there were a whole lot of activities and facts brought out that we would never have known if this gentleman hadn't flown in from Maryland to explain his side of the question. And he never knew about it until he heard it indirectly from someone.

To me, where we have zoning changes or zoning adjustments, those people involved always receive an advance notification. So I think that in the future, something should be done where when hearings are being held, that the people involved should be informed about them, whether by letter or not.

Adopted.

ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in honor of the birthday of Senator Bossie which will be celebrated tomorrow, until Tuesday April 12, at 2:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

SB 102, relative to an adult tutorial program and making an appropriation therefor.

HB 104, an act providing for the disposal of certain fish, game, fur-bearing animals and marine species.

SB 93, clarifying the legislative intent to which the state shall assume contractual obligations for the design of municipal sewage disposal system.

HB 172, permitting tax collectors to use automatic or electronic data processing in certain cases.

HB 84, relative to temporary loans issued under the municipal finance act.

SB 70, relative to the appointment and duties of the New Hampshire retirement system trustees.

HB 120, making supplemental appropriations to the board of engineers and the office of health planning.

HB 60, relating to registration and examination fees for professional engineers.

HB 137, requiring permission from the trap owner before a duly licensed trapper may tend another trapper's traps.

HB 166, relative to the limited openings of smelt brooks to the handicapped.

HB 186, providing for seasons and bag limits on snowshoe hares and cottontail rabbits and defining small game.

Adopted.

Senator Brown moved to adjourn at 3:55 p.m.

Adopted.

Tuesday, April 12

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

We Pray to thee, oh Father, that the lesson of immortality shall continue to be a song within our hearts through the beauty and joy of Easter.

For as Thou hast given your son for us so may we give of ourselves through that same grace working within us and for us as we seek to do his will.

We ask for thy living presence and for thy victorious power.
Amen

Senator Smith led the pledge of Allegiance.

Senators Foley, Fennelly and Downing were away on Senate business and were excused from the session.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 165-172 shall be by this resolution read a first and second time by the therein listed titled, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 165, relative to the use of force in defense of property. (Monier of Dist. 9; Sanborn of Dist. 17; Rock of Dist. 12; Provost of Dist. 18; Bergeron of Dist. 6; McLaughlin of Dist. 13; Healy of Dist. 16; Rep. Riley of Merrimack Dist. 6; Rep.

Stockman of Merrimack Dist. 8; Rep. Bodi of Merrimack Dist. 7; Rep. Heald of Hillsborough Dist. 5; Rep. Dickinson of Carroll Dist. 2—To Judiciary)

SB 166, permitting changes of party affiliation by mail and changing the time for holding sessions of the supervisors of the checklist. (Foley of Dist. 24; Hancock of Dist. 15—To Executive Departments, Municipal and County Government)

SB 167, relative to the enforcement of court ordered child support payments. (Monier of Dist. 9; Provost of Dist. 18; McLaughlin of Dist. 13—To Judiciary)

SB 168, adopting a safe drinking water act for New Hampshire. (Hancock of Dist. 15—To Environment)

SB 169, relative to parking permits for handicapped persons. (Lamontagne of Dist. 1—To Transportation)

SB 170, relative to certain free licenses for all totally and permanently disabled veterans, if disabled while on active duty from a service connected disability. (Foley of Dist. 24; Downing of Dist. 22—To Transportation)

SB 171, relative to dredge and fill control. (Smith of Dist. 3; Blaisdell of Dist. 10; Lamontagne of Dist. 1—To Environment)

SB 172, relative to parental responsibility. (Monier of Dist. 9; Jacobson of Dist. 7; Rock of Dist. 12; Sanborn of Dist. 17; Blaisdell of Dist. 10; McLaughlin of Dist. 13; Provost of Dist. 18; Brown of Dist. 19; Bergeron of Dist. 6; Fennelly of Dist. 21; Rep. Griffin of Rockingham Dist. 19; Rep. Perkins of Hillsborough Dist. 8; Rep. Waters of Merrimack Dist. 9—To Judiciary)

HOUSE MESSAGES

HOUSE CONCURS IN SENATE AMENDMENT

HB 119, authorizing the position of hearing officer in the department of education.

HB 236, relative to the student trustee in the state university system.

HOUSE CONCURS

SB 63, relative to real estate tax lien for the elderly or disabled.

HOUSE REFUSES TO CONCUR

SB 21, relative to the forfeiture of propelled vehicles used in the commission of certain crimes.

SB 5, permitting licensed establishments and holders of on-sale permits to advertise their prices by the drink or beverage.

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 446, 311, 430, 359, 415, 468, 386, 467, 565, 322, 372, 243, 258 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 446, relative to appeals from decisions of the racing commission and the greyhound racing commission. To Ways and Means.

HB 311, relative to notice by the conservation commission to the water resources board on local investigations pending dredge and fill approval. To Environment.

HB 430, authorizing dealers to issue temporary plates for twenty days. To Transportation.

HB 359, permitting any person 16 years of age or over to be prosecuted as an adult for a violation of any fishing law. To Judiciary.

HB 415, relative to penalties if found intoxicated while hunting and relative to implied consent. To Judiciary.

HB 468, opening Christine lake in the town of Stark to ice fishing. To Recreation.

HB 386, relative to liens on vessels, boats, and vessel or boat motors. To Transportation.

HB 467, relative to charging manner of death. To Judiciary.

HB 565, providing for payment of a claim to Barbara Cyr and making an appropriation therefor. To Finance.

HB 322, relative to the unsecured loaning authority of cooperative banks, building and loan associations and savings and loan associations. To Banks.

HB 372, relative to authority of Franklin Pierce College and the Franklin Pierce Law Center to confer degrees. To Education.

HB 243, relative to a hunting accident in which a person is wounded or killed. To Judiciary.

HB 258, restricting the disposal of high level nuclear wastes in the state and within the coastal jurisdiction of the state. To Environment.

ENROLLED BILLS AMENDMENTS

HB 186, providing for seasons and bag limits on snowshoe hares and cottontail rabbits and defining small game.

Enrolled Amendment to HB 186

Amend RSA 207:1, VIII as inserted by section 2 of the bill by striking out line 2 and inserting in place thereof the following:

or fisher cat, raccoon, skunk, muskrat and fox.

Adopted.

HB 238, relative to the investment powers of savings banks.

Enrolled Amendment to HB 238

Amend the bill by striking out lines 10 through 12 of section 1 and inserting in place thereof the following:

that said paragraph as amended shall read as follows:

Adopted.

HB 137, requiring permission from the trap owner before a duly licensed trapper may tend another trapper's traps.

Enrolled Amendment to HB 137

Amend RSA 210:13 as inserted by section 1 of the bill by striking out line 8 and inserting in place thereof the following:

emergency, the owner of the traps may grant written permission to

Adopted.

HB 307, allowing town selectmen to set the beano fee from \$1.00 to \$25.00.

Enrolled Amendment to HB 307

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

allowing town selectmen or city councils to set beano license fees.

Adopted.

Senator Lamontagne for the committee.

COMMITTEE REPORTS

HB 71, to reclassify a certain highway in the city of Dover. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, the Public Works department appeared before our committee in favor of this bill reclassifying the upper Sixth Street in Dover from a Class II highway to a class V highway. No one appeared in opposition to this bill and I urge for its passage.

Adopted. Ordered to third reading.

SB 88, relative to workmen's compensation coverage for domestic and casual employees. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President, this bill repeals a particular section that we put into effect covering domestics

under homeowners and comprehensive personal liability policies with the fee of \$3 in the last session. This bill as passed nullified a persons right to recover adequate compensation for injuries sustained through negligence of his so called employer. Many of the homeowners cannot either select or not select the type coverage. It's a mandatory law. It does not provide for reduction of the risk under a liability policy which was another objection to the statute. There's no consideration given whatsoever. There was no opposition at the hearings. The New Hampshire Insurance Department came in and they testified in favor of the bill. They wanted us to know that they agree with the testimony that we had heard although its a \$3 premium right now they can certainly envision where it could get up to \$10 or \$12. The committee was unanimous in its approval.

Sen. BLAISDELL: I had a constituent come in to me last summer and say that the insurance company was going to make him pay like a workmens compensation, he paid out about \$500 in wages to somebody to mow his lawn and things like that and they were going to make him take out a workmens compensation plan because he hired help. Now this three dollar thing that your taking off will eliminate that won't it?

Sen. BERGERON: Well, this refers specifically to domestics your part time your casual employee and I would certainly consider this a part time domestic casual employee.

Sen. BLAISDELL: Then, under this bill this man would be covered?

Sen. BERGERON: Yes. You have one slight problem that depending upon the time that his policy goes into effect there may be some gap there, but I think the time has been long enough where we shouldn't have the situation where anyone in the State of New Hampshire is not automatically covered under this new mandated law.

Sen. BOSSIE: I ask you this question bearing in mind I favor your lawyers bill. Is it not true that a similar bill in the House was killed this year and I'd like to know the status if we pass this what is going to happen over there?

Sen. BERGERON: This is true Senator, and I don't know what the outcome will be. The only thing we do know is a bill was filed, we were under an obligation to have the hearing and report back to the Senate for its action.

Sen. BRADLEY: Senator, I can't recall that well but why did we think this was such a good idea two years ago or whenever it was we passed it?

Sen. BERGERON: Well if I can explain what happened, there were some misunderstanding within the committee. This original mandated coverage came within the department of labors total overall package. It snuck in there, it was questioned at the time, we were all told that was the thing to do and we did it and after we did it we realized that we mandated something we never should have. As a result we tried to take care of it in the special session last year if you will recall.

Sen. BRADLEY: I was a little confused by your response to Senator Blaisdell. As I understood his part he's got a constituent who's hiring someone to mow his lawn. Now under the present law before we can enact this bill the law as it has been in the last two years there would be coverage is that right? There would be workmens comp coverage?

Sen. BERGERON: Yes.

Sen. BRADLEY: If we pass this bill, then in order for his constituent to get coverage he's got to go out specifically and get it? Is that right?

Sen. BERGERON: No. You have two aspects of liability insurance that would come back into play that we had before. Number one, automatically with all homeowners policies any comprehensive personal liability policies there is already medical coverage there. People have already purchased it. This particular individual would be entitled to these medical benefits up to a maximum limit and number two he is also under the tort system whereby if there is any legal liability he has recourse in the courts.

Sen. BRADLEY: I'm not worrying about the guy that is mowing the lawn now. I'm worrying about the guy who hired him and he gets sued, if we pass this law is he going to have coverage?

Sen. BERGERON: Actually, by passing this law we didn't do anything for the guy thats being sued. What we did was for the fellow that was mowing a lawn supposedly to take care of it. The only thing we did in fact was negate his right to sue.

Sen. BRADLEY: Thats right. Now we are giving that guys' right to sue back to him if we pass this bill?

Sen. BERGERON: Thats right. If we repeal.

Sen. BRADLEY: Now, will he the typical homeowner who has a homeowners policy be covered when the boy who has

been mowing the lawn sues for getting his leg bitten off by a dog or something?

Sen. BERGERON: Under the coverage of the homeowners contract your protecting the homeowner for his legal liability. If there is legal liability there, he is covered.

Adopted. Ordered to third reading.

HB 25, relative to the maximum amounts of group life insurance for employees. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President, under the present law no group life insurance policy can be issued to an employee if such policy in combination with all other group insurance that he has exceeds one hundred thousand dollars. It has been brought to the committees attention that there are instances where more than a hundred thousand dollars worth of insurance is purchased and to circumvent the law they are going out of state and buying the coverage. We don't particularly see the need for our people going out of state to purchase this coverage, therefore we recommend the bill to eliminate that hundred thousand dollar limit. In testimony we heard from the insurance department, we heard from other people that were all favorable. There was one in opposition and its questionable just what he was getting at. He was in the life insurance business. The committee was unanimous in its recommendation.

Adopted. Ordered to third reading.

HB 375, relative to the merger of the American College of Life Underwriters with the American College. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this is merely a name change a reference in the insurance laws of the American College of Life Underwriters to reflect the merger between that organization and the American College.

Adopted. Ordered to third reading.

HB 184, relative to the minimum insurance coverage re-

quired for aircraft operated for hire and relative to requirements for security deposits and self-insurer certificates. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President, this bill was sponsored on behalf of the Aeronautics Commission. It is basically a housedeeeping bill dealing strictly with aircraft for hire. It raises the limit. Back in March of 1973 the Aeronautics Commission decided that the insurance minimum for those people who operate aircraft for hire in a business were entirely too low so they put out a regulation which raises them as they had the right to do under their broad powers. Now the only thing they want is for the statutes to coincide with their regulation.

Adopted. Ordered to third reading.

HB 200, permitting a court to require a delinquent child to make restitution. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: HB 200 adds seven words to the statute now on what a court can do in regard to a juvenile delinquent child and the seven words are under section 169:14 the third line added are "or requier the child to make restitution." The purpose of the bill coming in to us was because in a court case recently, this was not allowed although courts had been doing it and our statute does state that the purpose of treating a juvenile offender is to help rehabilitate him and the sponsors and the senate committee felt that allowing the court to ask the child to make restitution was one way.

Sen. MONIER: Mr. President, I recognize this bill is important and has within it the characteristics of what we are now doing in the judicial system. I'm going to vote against the resolution simply because there are parts of this bill, Senator Keeney, that I just don't agree with in terms of the proper concern with juveniles, that we have in the state. At a later time in the session I have a bill coming in that deals with some of those problems and as a result I'm going to record a no on it and I want the record to show why it is. It's because I don't agree with some of the definitions and some of the concerns that are expressed in the bill but I recognize the problem of the bill.

Sen. KEENEY: Senator Monier, do you realize that except

for the seven words that are added this is the law as it stands now?

Sen. MONIER: I certainly do Senator and I don't agree with the law now. That was my point.

Sen. BERGERON: I'm sorry, I missed part of it. I'm referring here after the delinquent child has passed the age of 17 the court may, is that in the present statute right now?

Sen. KEENEY: Yes. The only thing that is being added by HB 200 are the seven words "or require the child to make restitution." This is the third line under RSA 169:14.

Adopted. Ordered to a third reading.

(Senator Monier recorded in opposition to the bill)

SB 99, relative to supervision of bail bondsmen by the insurance commissioner. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to **SB 99**

Amend RSA 598-A:1-a, II as inserted by section 2 of the bill by striking out said paragraph and inserting in place thereof the following:

II. Thereafter, an annual renewal fee of \$100 for the registration in each county of the state where a professional bondsman seeks to post bail shall be due and payable to the insurance commissioner on December 30 for the ensuing year.

Sen. BOSSIE: Mr. President, the amendment as proposed by the committee is on page 6 of today's calendar. Basically what the amendment does is to provide for rather than a \$50 annual renewal fee as it is in the original bill, to make it \$100 for each county in which the bondsmen are registered. That is the way it is. All this bill does is to transfer from the judiciary the control of a bail bondsman. Judge Dumphy from the superior court argued before our committee that the court does not have the investigative power to review these individuals who seek to be bondsmen and therefore it was necessary to place them under the insurance commissioner who does have the investigative abilities. This is an agreed bill as you recalled a few years ago this bill came in. There is discre-

pancy, Commissioner Whaland was about to be shifted over to the Health & Welfare department. He didn't want it, nobody wanted it and so it got killed. So this year we're back, Judge Dumphy emphasizes it, its very important because the court is very concerned with bail bondsmen because of the nature of their business and Commissioner Whaland did appear and he agreed to the bill and he agrees with the amendment. I would ask you to pass it.

Sen. PRESTON: Senator Bossie, I'd like to ask you to explain this one paragraph first page section 1. No person proposing to become bail or surety in a criminal case for hire or reward, either received or to be received, shall be accepted as such unless he shall have been approved and registered as a professional bondsman by the insurance commissioner; providing however, no person proposing to become bail or surety in a criminal case in any calendar year after having become bail or surety in criminal cases on 5 separate occasions in said year shall be accepted thereafter during said year as bail or surety unless he shall have been approved and registered as a professional bondsman as aforesaid. Now as a layman I don't understand that.

Sen. BOSSIE: Well, that apparently is what the law is today. Like if your brother-in-law gets picked up and thrown in the hoosegow for say, drunk driving, you can go down and post your money; but if you do it more than 5 times in any calendar year and you do it for profit, or you probably want to leave your brother-in-law, as Senator Bergeron says, in jail. If you didn't, if you did it more than 5 times in any calendar year and did it for profit you'd have to register. As we know a bondsman is an individual who, when you get arrested or one gets arrested, in order to get out of jail you need to post a bond. Oftentimes its in significant amounts. The bondsmans fee by rule of court is 10%, thats the maximum they can charge. Well, if somebodys in on \$50,000 bond \$5,000 is the fee. Quite often its a corporate bond that the bondsman puts up, its not really his own money so he probably pays 2% for that bond. As we understand now, that this business of being a bondsman is becoming a kind of a closed shop. There is one individual who does it generally throughout the state. A few years ago there used to be 5 or 6 different ones that did it. The Insurance Commissioner suggests that probably isn't that lucrative. I don't know what the reason is that its not that lucrative; but this is their business and of course dealing with the

type of people bail bondsman do they are always in jeopardy of losing their bond because if the defendant skips and doesn't show up for court and they default then that's a lot of money out of their own pocket. So it's a security to the State of New Hampshire and we'd want to especially deal properly with the people that will be running this bond business.

Sen. SANBORN: Senator, I can understand what you have been discussing so far, however, I'd like to look at the monetary value here a little bit. You say that there is \$400 to start out with and that goes, I take it, to the Commissioner of Insurance?

Sen. BOSSIE: Yes.

Sen. SANBORN: I understand each year thereafter \$50.

Sen. BOSSIE: No. Each year in accordance with the amendment on page 6 it would be \$100 for each county. So if a person goes to Rockingham and Hillsboro county it's \$200 a year.

Sen. SANBORN: And this again is to the Insurance Commissioner?

Sen. BOSSIE: Yes.

Sen. SANBORN: However, I don't see anything Senator here relative to the budget of the insurance commissioner. His budget is going to be changed, operating budget, is he going to need more investigators, this money coming in doesn't show anywhere in his operative budget does it?

Sen. BOSSIE: I would hope not. This won't be that much work. I believe, and I don't want to quote him, he said he can absorb it within his department. This is no big deal. You don't need two people full time for it. This is something you need one person for about 2 weeks a year to do.

Sen. MONIER: Senator, let me ask you something that is bothering me about this. Is it not correct that at the present time a bail bondsman or a bail person that goes to a court, the court can recognize that gentleman on his own recognizance, accept his signature and so forth and so on?

Sen. BOSSIE: Yes sir.

Sen. MONIER: And it's left almost to the discretion of each one of the courts?

Sen. BOSSIE: Yes. As well as bail commissioners.

Sen. MONIER: Tell me why this now has to be done in a different fashion? And what we gain from doing it that way.

Sen. BOSSIE: Well, we gain better supervision.

Sen. MONIER: Of what?

Sen. BOSSIE: We gain better supervision of the people that we are trying to supervise. The bondsmen themselves. Right now most of the bondsmen come out of the State of Massachusetts and the court does not have the personnel to go down to Massachusetts to find out what these people are like or if they represent honest interest and so what we would want is to have the insurance department who does this anyway with all the insurance companies, they would have the facilities to do it and in fact those bondsmen that provide corporate sureties would have a double check on these people. We just want to insure the integrity of our system in New Hampshire.

Sen. MONIER: It disturbs me because if I wanted to check on Massachusetts people I could write the law that the courts could not accept a bondsman from Massachusetts without them certified by somebody. It seems to me what we are really doing is cutting off some people that might want to do this in the State and forcing them now to pay a fee for it perhaps making it very difficult for someone to find a bail bondsman if there is not one around and last but not least, this business of me, for example, wanting to go down and provide bail for my drunken brother-in-law, but supposing it was some of my friends in the Senate and there were 6 or 7 of them. Now does that count as 5 or 6 different things. Do I have to be a professional bail bondsman to do this?

Sen. BOSSIE Since you would not be doing it for hire, we presume, if you charge 10% you would have to register. But we presume that if you did that for 6 or 7 of us in the Senate then of course there would be no charge to you or you wouldn't have to register with anyone. With regards to the rest of your questions, this in fact does not, under the present system now, the individual does pay \$100 in every county. The only thing they don't pay is the original investigatory fee. So its still \$100 in their county. The only additional charge we are going to make under this bill is the initial \$400 when you originally register so that we will know just who we are dealing with.

Sen. MONIER: Does this in any way restrict the fact that I as an individual or recognized by the court as being a man of property or something like that cannot go down and bail someone out on my word if I want to?

Sen. BOSSIE: Definitely not. No problem there.

Amendment adopted. Ordered to third reading.

SB 116, requiring proof of financial responsibility for the operators of mopeds. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, this bill was introduced for the benefit of the Department of Safety and mopeds are any two wheels or three wheel peddled vehicle with an automatic transmission and a (helper) motor which is rated at no more than two brake horse power has a cylinder capacity not exceeding 50 cubic centimeters and has a maximum design speed of less than 30 m.p.h. on level ground. This bill provides that the operator of mopeds shall be under the New Hampshire financial responsibility law. The bill further specifies certain procedures to be followed in the event of an accident while operating a moped. Accidents resulting in death or injury to a person or property damage of \$300 or more are covered. In other words a moped will have the same law as a motor vehicle to the responsibility law.

Sen. MCLAUGHLIN: Senator under this proposed bill is it saying in essence that you must have a special policy or would your homeowners insurance cover a vehicle of this nature?

Sen. LAMONTAGNE: As far as I know, this will compel them to insure in the same manner as another vehicle.

Sen. MCLAUGHLIN: Is there a policy available in the State of New Hampshire to buy insurance to cover these specific vehicles at this time?

Sen. LAMONTAGNE: I've been told that there is.

Sen. HEALY: From what I gather, Senator, there has been quite a great deal of information coming out about mopeds and a number of states are coming up with certain regulations on these mopeds and it all seems to differ quite a bit. Some of these laws are requiring mopeds to stay off principle, primary highways. For example I & II highways specified highways and so forth; but from my thinking aren't you putting the horse before the cart? These mopeds have not as yet been specified as coming under the motor vehicle safety laws from what I understand. Previous bills indicate that these are in the same category as a bicycle. Is that not true?

Sen. LAMONTAGNE: Senator, there is no machine but at the same time if you passed this bill **SB 116** you are going to be placing the moped under the same law as any motor vehicle

that we have under the financial responsibility laws.

Sen. HEALY: Is your committee having another hearing on this moped bill?

Sen. LAMONTAGNE: No. We are reporting it now. The committee has already met and the committee has reported it ought to pass and that's the reason why I'm reporting it for the committee.

Sen. HEALY: Your measure indicates that goes to a speed as high as 30 m.p.h.?

Sen. LAMONTAGNE: Mopeds are known not to exceed 30 mph. Has to be on level ground in order to get that speed.

Sen. HEALY: I understand. I'd like to read something to you Senator if I could. Mopeds have the characteristics and performance capabilities of man powered bicycles. Engine design limits maximum speeds to 20 to 28 mph range. Speeds that can be obtained or surpassed by a bicycle rider. Persons who have ridden bicycles usually can ride mopeds easily because of their simple operation, peddles, handbrakes, and lack of gear shift. They differ from trail bikes, minibikes and motor driven cycles in several ways, horsepower and so forth. I have a considerable amount of information here as you can see on mopeds and it mentions too its taken in the national scope where its covering a number of states where new laws are coming in.

Sen. LAMONTAGNE: Senator, let me say this, this is almost similar to what a snow machine is. You know how a snow machine operates?

Sen. HEALY: To a degree, yes.

Sen. LAMONTAGNE: Well, this is in the same category as that.

Sen. HEALY: What I'm thinking is that this moped regulation or the new bill that you have, I think its only going to stimulate a great many changes and a great deal of legislation. I would like to see this bill referred back to your committee or another committee with the discretion of the president to further consider action on this so that we won't be consistently coming through with changes on the bill. We have to make the decision whether this is a bicycle or a motor bike. The transportation department refers to it as a motorized camel, believe it or now. The department of transportation has decided, however, to class them as mopeds for motor plus peddle. There are quite a few important pieces of information here I'm sure you'd be interested in considered revisions by

different states so I'd like to move that the bill be referred back to the transportation committee for further study.

Sen. LAMONTAGNE: You didn't give me a chance to answer your question. Now at the present time you might be reading in the paper but this bill was drafted by the motor vehicle department. It is their bill, not my bill. I'm only a sponsor for them and I'm sure that the motor vehicle department knows exactly what they want and I think the way the bill is explained and the way the law is written that certainly its only to compile the financial responsibility laws in the same manner as it is if you are registering a car motorcycle, or even a bicycle that you can register on the highway and this includes mopeds.

Sen. HEALY: Since there is some consternation about this bill as far as I'm concerned anyway and others too, wouldn't you think it might be advisable if we did a little more studying on this because its still in the category of a bicycle. A bicycle can exceed the limits of this particular moped.

Sen. LAMONTAGNE: I don't see any need of it Senator.

Sen. POULSEN: Senator Lamontagne, do you remember, I think two years ago, we legalized mopeds, I believe it was Senator Jacobsons bill, defined them and their horse power and made a category that was separate from motorcycles and automobiles?

Sen. LAMONTAGNE: Senator, you are correct.

Sen. POULSEN: Do you agree that the bill we are talking about now uses that same definition that they originally legalized by and only ask that they be brought under the financial liability law?

Sen. LAMONTAGNE: That is correct and that is what this bill is all about.

Sen. BERGERON: Senator, is it not your recollection as its mine we originally passed a moped bill we also stated at that time these vehicles had to be registered, were considered a vehicle and were already subject to the financial responsibility law?

Sen. LAMONTAGNE: Well, you are right. In other words, the financial law aw or financial responsibility is not law now until **SB 16** is enacted. Because **SB 16** says that if you get into an accident over \$300 under this bill you have to report it at the same time follow the same law as we have for any other vehicles.

Sen. BERGERON: What happens today if I'm driving my

moped and I'm involved in an accident with an automobile, what's my responsibility as far as reporting it?

Sen. LAMONTAGNE: Well, you take a chance of losing your registration and possibly your license.

Sen. ROCK: Will your bill have any effect on the moped law as it is now enforced as to the nonrequirement of wearing helmets?

Sen. LAMONTAGNE: None.

Sen. ROCK: Senator, I have in my hand a copy of **SB 28** as was introduced by Senator Jacobson in the previous session and it defines a moped as a bicycle. The term bicycle shall include mopeds as defined in RSA 259:1. The question is your now changing that and putting it in the category of a motorcycle is that not correct?

Sen. LAMONTAGNE: That is correct.

Sen. ROCK: Then how Senator do you define your answer to me that it would have no affect on public law if we are making it come under the motorcycle law?

Sen. LAMONTAGNE: Well, right now we are really putting it under the financial responsibility law of any motor vehicle on the highway. This is what we are doing in this bill. Now what you're speaking about is the area of wearing a helmet. Personally I'd like to put this question to Senator Poulsen. In my opinion I don't believe it comes under that law. But I'd like to have him give you a better answer.

Sen. POULSEN: Senator Rock, I would only say that the definition of a moped is still the same whether its in the bicycle category or motorcycle category. It is still classed as a moped which does not require a helmet.

Sen. ROCK: Would the operator of a moped under the changes that you are recommending in the bill then have to have a special license since its removed from the bicycle category in order to operate a moped.

Sen. POULSEN: No.

Sen. HEALY: Senator, since you pretty much consider the moped as in the category of the bicycle would you think that in the future there may be some more legislation coming through now putting bicycles in this category of financial responsibility, I'd say if things equal to one thing or equal each other, what do you think about that? What is your position on that?

Sen. POULSEN: I think your question is very good

Senator Healy. Actually, we didn't think at first a snow machine needed financial responsibility. We didn't think they could injure an automobile. I think it does turn out they can cause a car to swerve and leave the road. A moped can do the same. Bicycles historically can do the same thing but have gotten by all these years and I would hope would continue to get along without it.

Sen. HEALY: You understand Senator that the permit now for a moped is \$5 if it comes under this new rule or regulation of the intent amount of a motor bike or a motorcycle the permit will increase in price?

Sen. POULSEN: No. Senator. It doesn't come in that category. It's compared with the snow machines. In which case the registration hasn't risen.

Sen. HEALY: You've got some kind of an animal here I'd say. Its either a bicycle or its a motorcycle or something in between. From what I understand such a vehicle or motorized vehicle would cost more money to register. Now from what I gather from what you people say, putting this in the category of a motorcycle, am I correct, or am I vague on the whole situation?

Sen. POULSEN: Thats not correct. It still stays a moped. Its a new category. Its got its own qualifications.

Sen. HEALY: You would consider it a camel?

Sen. POULSEN: Not really.

Senator Bossie moved that **SB 116** be referred back to the committee on Transportation.

Sen. BOSSIE: Mr. President, I may have been very attentive to the various arguments and questions on this bill and frankly I am in a quandry as to what the heck the bill means and I'm sure the committee in bringing it out is very well intended; but the questions, especially that Senator Rock brought up about the motorcycle helmet bill, what effect will that have? The question of bicycles, what do we know about the responsibility of people who operate bicycles having to stop. As we recall last year when this bill came before the legislature the department of motor vehicles opposed it. They didn't want this. They wanted it with the helmet on and the whole business. We in the legislature passed it. I think this is an attempt and I just don't know of a vagueness of the whole bill. I believe that we should send it to interim study so

that we will know for sure exactly what we are doing and whether we are requiring our moped operators, and there are thousands of them now, to require them to wear motorcycle helmets and whether we are requiring an undue burden on them that we don't require of bicycle operators. After all we intended that the operation of mopeds would be the same with no additional burden than that of a regular bicycle operator.

Sen. POULSEN: Senator Bossie, I share your interpretation of helmets. I do feel, however, that if it were sent to an interim study committee that would be the end of it for this year. Would you consider sending it back to the committee instead and possibly getting a clarification of the helmet problem?

Sen. BOSSIE: Sure. But let me put this addendum on to that and I've said this several times before, its nothing new, that in due respect to everybody because we all support various bills put in by the various commissions of our state. We are the ones that are making policy around here. I for one am getting very sick of these departments putting in bills, they put these in here and we vote these down, we're against motherhood, apple pie, and the whole business. Sooner or later we are going to have to come to it, and frankly I'm very sick of it, I go to Legislative Services all my bills are not ready to be signed. But these bills for departments are ready. Now who has priority around here. I ran for this office and I'm entitled to have these bills. This just makes me irritated. I'm not offended by this particular bill nor the sponsor because obviously they think it is right. I think we should stand up for what is right.

Sen. POULSEN: Senator Bossie, do you think this latter problem of yours could have anything to do with the fact that those people are there year round and we are only here part time?

Sen. BOSSIE: You bet your top dollar and that's why they get top dollar too.

Sen. LAMONTAGNE: Mr. President, members of the Senate, I rise in opposition to the present motion and for this reason. I personally feel that there is no reason to refer this to a study committee. It should have been recommitted at the time when we had the bill to approve mopeds. Now that's when it should have been sent to an interim study if there were any questions about helmets. You can be assured that you do not have to have a helmet to operate a moped. The main pur-

pose for this bill is, we have the moped law. We have passed the law. Now it is necessary to put the mopeds in the same manner as a motor vehicle in reference to reporting accidents over \$300. This is for the benefit of the motorist who gets into an accident with a moped so that the operator of a moped will make a report and treat it in the same manner as those who are operating a motor vehicle. Now why should a motor vehicle come under the financial responsibility law and not the mopeds? This is only to protect the motorists and I'm talking about the motorists who are under the financial responsibility law. Why shouldn't the mopeds come under the same law?

Sen. ROCK: Mr. President, I respect what Senator Lamontagne has said here. I also move to hear strongly the words that Senator Bossie has put before us as to the real intent behind the bill and therefore I would hope that the Senator from the first district would concur with Senator Bossie's motion to recommit to committee so that we could get someone from motor vehicles over here and get some firm answers as to what we are dealing with because I have apprehensions and fears that we are being subdued into complacency in what we are doing is different than what we think we are doing. I'd like to have some other answers first. So I support the motion to recommit.

Sen. POULSEN: I rise in support and appreciation of the motion. Apparently there are worries and problems and I think we can take care of them in committee and not have the bill go in limbo.

Adopted.

HB 141, clarifying the authority to maintain traffic control upon entering the state highway system. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill legalizes what is now being done in the erection of particularly stop signs on exits from shopping centers and places like those areas that are not strictly on the highway system but would lead to it. It also does a couple other smaller things in the recording of these signs. The old law requires them to have the label on them saying what they were. It eliminates that. It does require the State to keep a file of them and where they are by number.

Adopted. Ordered to third reading.

HB 255, relative to the registration of aircraft or air carriers that are "home based" in New Hampshire. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill is an effort on the part of the Aeronautics Commission to clarify the position of out of state planes in New Hampshire, nonresidents planes, planes that are flying from New Hampshire on interstate. It should bring in a little bit more money both to the State and to the town. The town I think gets 1/4 of the fee. We will catch a few planes that are not now registered in New Hampshire.

Adopted. Ordered to third reading.

SB 136, relative to the sale of land subject to the current use tax. Ought to pass. Senator Keeney for the committee.

Senator Keeney moved that SB 136 be referred back to the committee on Ways and Means.

Sen. KEENEY: The reason I request this is, since the report of the committee came out several members and the sponsor have been approached by the Commissioner of Agriculture and members of the Current Use Advisory Board who were the prime movers of this bill to clarify the title of the act. The bill in itself really does not refer to the sale of land. Its referring to change in the use of land and the other specifications that are listed and we would like to clarify that in committee.

Sen. MONIER: Senator Keeney, could you just tell me what recommital has got to do with the title and act relative to the sale of land subject to current use tax? The analysis says this bill provides that on a change of use of land subject to land use change tax said tax will be due and payable. What is it they are going to attempt to clarify?

Sen. KEENEY: You're right. The analysis of the bill is correct and its the feeling of the members that the fact that its called sale of land is misleading and this bill would be listed that way in indexes, following the session. It is a misleading title.

Adopted.

HB 333, providing a penalty for operating a restaurant or hotel after suspension of license for failure to pay meals and rooms taxes. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, this is one of those bills that I invite close scrutiny of. It's another one introduced by Rep. Bednar at the request of the Department of Revenue and Administration. The present law on room and meals provide criminal penalties if you don't pay the tax and if you don't get a license but it doesn't provide any penalty for someone whose license has been revoked that then continues to operate. And so all this bill is doing is inserting a criminal penalty into the law that says if you operate after your license has been revoked or suspended as provided in the law that you will be guilty of a criminal penalty in this case a misdemeanor if a natural person and a felony if a corporation which is the same level of penalty which is provided for other violations of the other sections of the room and meals tax laws.

Senator Rock moved that HB 333 be laid on the table.

Adopted.

HB 367, relative to filing requirements and late payment penalties of the business profits tax. Inexpedient to legislate. Senator Bergeron for the committee.

Sen. BERGERON: I had the dubious honor of reporting a representative Bednar bill for the department of revenue Administration as inexpedient to legislate. We heard they came in to us and told us it was a housekeeping measure. Everything was fine and hunky-dory and nothing to worry about until I received a letter from a certain individual that questioned some of our action. What we were told in committee was that all this does is standardizes the penalties charge as well as the interest paid on over payments and it standardizes the penalties charge as well as the interest paid on over payments and it standardizes the dates to file all returns being the same. What it in effect does, it increases the penalty for taxes due from 10% to 1% per month and in my math that means you got

a 20% increase 1% per month for a total of 12%, although they did several days later correct their testimony. The other thing it does it eliminates the 15 day grace period for filing your return; therefore, the committee was unanimous in recommending the bill be inexpedient.

Adopted.

HB 1, relative to the fee schedule of the recording officers.

Motion to indefinitely postpone.

Senator Brown moved that HB 1 be made a special order for 1:02 p.m., Thursday, April 14th.

Adopted.

SB 84, authorizing the limited police powers to title investigators, fire investigators and licensing officers of the department of safety.

Motion of ought to pass with amendment.

Amendment to **SB 84**

Amend RSA 106-A:4-a, I as inserted by section 1 of bill by striking out same and inserting in place thereof the following:

1. The commissioner of safety, when he deems it necessary, is authorized to grant to the assistant to the director of the division of motor vehicles and to licensing officers within the division of motor vehicles, and to title investigators within the bureau of certificate of title of the division of motor vehicles, and to the state fire marshall and deputy fire marshals and to fire investigators within the division of safety services, excluding clerical personnel of any office, for the efficient discharge of their duties, police powers up to and including the authority of peace officers as defined under RSA 594:1, III, and the authority to make arrests, serve criminal processes, and enforce the motor vehicle laws and regulations in the case of motor vehicle division employees, and the authority to make arrests, serve criminal processes, and enforce the fire safety codes and regulations in the case of employees of the

office of the state fire marshal. This police power shall not include the authority to direct and control traffic, the authority to carry a concealed weapon without a permit, nor any authority to enforce the provisions of RSA 262-A.

Sen. BOSSIE: Mr. President, this bill was made a special order at the request of Senator Lamontagne who had to check this out with Commissioner Flynn of the Highway department and he, I understand, has told me this afternoon that he has no objection to the amendment as we have stated last week this is kind of an agreed bill because the Judiciary Committee was concerned with the powers of police officers being in the wrong hands and we didn't want the secretaries to turn out to be arresting officers along side the road. We think its a fair amendment and we would ask the Senate to concur. Basically the last sentence is the only change thats there. Its a restrictive clause. This police power shall not include the authority to direct and control traffic, the authority to carry a concealed weapon without a permit, nor any authority to enforce the provisions of RSA 262-A which are the motor vehicle laws and the DWI laws. This gives them if the arson squad from the fire detective the state fire marshall at that point these people would have the power if they caught an arsonist doing his little work, they could arrest him right there and this would be very limited and for that purpose.

Sen. TROWBRIDGE: Would this, in your opinion, make these police powers sufficient to give them rights under group II?

Sen. BOSSIE: Definitely not.

Amendment adopted. Ordered to third reading.

Senator Rock spoke under rule No. 44.

ANNOUNCEMENTS

ENROLLED BILLS REPORT

HB 259, establishing the ladybug as the state insect of New Hampshire.

HB 323, relative to loss of settlement for participation in local work programs.

HB 236, relative to the student trustee in the state university system.

HB 172, permitting tax collectors to use automatic or electronic data processing equipment in certain cases.

HB 166, relative to limited openings of smelt brooks to the handicapped.

HB 158, relative to the compensation of tax collectors.

HB 156, relative to the property tax list.

HB 104, providing for the disposal of certain fish, game, fur-bearing animals and marine species.

HB 119, authorizing the position of hearing officer in the department of education.

HB 329, relative to the tenure of the poet laureate of New Hampshire.

SB 63, relative to real estate tax lien for the elderly or disabled.

Senator Lamontagne for the committee.

Senator Preston moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, April 13, at 2:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 71, to reclassify a certain highway in the city of Dover.

SB 88, relative to workmen's compensation coverage for domestic and casual employees.

HB 25, relative to the maximum amounts of group life insurance for employees.

HB 375, relative to the merger of the American College of Life Underwriters with the American College.

HB 184, relative to the minimum insurance coverage required for aircraft operated for hire and relative to requirements for security deposits and self-insurer certificates.

HB 200, permitting a court to require a delinquent child to make restitution.

SB 99, relative to supervision of bail bondsmen by the insurance commissioner.

HB 141, clarifying the authority to maintain traffic control upon entering the state highway system.

HB 255, relative to the registration of aircraft or air carriers that are "home based" in New Hampshire.

SB 84, authorizing the limited police powers to title investigators, fire investigators and licensing officers of the department of safety.

Adopted.

Senator Poulsen moved to adjourn at 3:45 p.m.

Adopted.

Wednesday, April 13

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord we pray that the mistakes of the past may ever be our guide, now, and for the future as we carefully and prayerfully examine those pieces of legislation, which rightfully or wrongfully have been prepared for acceptance or rejection by this body.

Bless this land which thou hast given us and may we work together for it's glory and for peace and tranquility within.

Amen

Senator Hancock led the Pledge of Allegiance.

Senators Foley, Fennelly, and Downing were away on Senate business and were excused from session.

INTRODUCTION OF GUESTS

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 173-175 shall be by this resolution read a first and second time by the therein listed titles, lain on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 173, establishing the New Hampshire municipal bond bank as a public body corporate and politic for the purpose of facilitating the borrowing of money by counties, cities, towns and districts and making an appropriation therefor. (Rock of Dist. 12; Jacobson of Dist. 7; Monier of Dist. 9; Rep. Hanson of Merrimack Dist. 5; Rep. Roberts of Belknap Dist. 4; Rep. Kidder of Merrimack Dist. 1—To Banks)

SB 174, relative to placing a neglected child under the supervision of the director of the division of welfare. (Gardner of Dist. 4—To Public Institutions)

SB 175, providing a penalty for purposely or knowingly covering a fire hydrant with snow or other debris. (McLaughlin of Dist. 13; Sanborn of Dist. 17; Rep. Wallace of Hillsborough Dist. 22—To Judiciary)

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 441, 474, 649, 406, 213 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 441, relative to changing the season on otter, mink and muskrat. To Recreation and Development.

HB 474, permitting persons awaiting trial in superior court to work in a jail or house of correction. To Judiciary.

HB 649, relative to prostitution and related offenses. To Judiciary.

HB 406, authorizing license and permit for restaurants in Landaff. To Administrative Affairs.

HB 213, relative to reconsidering an action taken at a town meeting, village district meeting or school district meeting. To Executive Departments.

Senator Rock moved that the proposed joint rules and amendments thereto for the 1977 session be taken from the table.

Adopted.

Senator Monier moved the following proposed changes to the Joint Rules.

Proposed Changes In Joint Rules

11. No bill which has been indefinitely postponed shall be admitted under color of amendment by a Committee of Conference or otherwise except a bill which has been admitted under Rule 12a and said bill raises revenue or reduces the budget, in which case, it may be adopted by a majority vote of both branches. This joint rule supercedes any specific House and Senate rules on this subject matter.

Addition to Rule No. 12a as proposed by the Joint Rules Committee.

12a. Any bill so admitted may be transmitted to the nonoriginating body within two weeks of admission even if it does not meet the transmission deadlines contained earlier in these joint rules.

Sen. MONIER: In our discussion about the joint rules on the previous day I did make two recommendations of proposed changes. At that time, Senator Trowbridge asked me a quick question about one of them and he was right and so I rewrote

them. So what you have in front of you today is what I would now like to offer as the proposed changes to the joint rules. Once again, number 11 deals with and you have your old set with you to check it, but the old set very clearly reads and I'll read it to you so that there isn't any question in your mind, old number 11 which is on page 114 of the journal indicated as follows: No bill which has been indefinitely postponed shall be admitted under color of amendment by a committee conference or otherwise. The amended change to that that I recommend is the same number 11, no bill which has been indefinitely postponed shall be admitted under color of amendment by a committee of conference or otherwise; exactly the same, but then it adds except a bill which has been admitted under rule 12a and said bill raises revenues or reduces the budget in which case it may be adopted by a majority vote of both branches and that this joint rule supercedes any specific house and Senate rules on this subject matter. Now if you remember the discussion we had at the time my argument or my urging the Senate to pass this was very simple. That we are heading down into the last month and a half and Senator Trowbridge supported this at the time, and we may find ourselves in a position where we will have a budget in which we will have all of the bills or the possibilities of revenue or cutting of costs which ever way you want to look at it that have already been acted upon prior to us receiving that budget. If we box ourselves into that kind of corner then we have no alternative, there is nothing left. So that under the joint rules that were recommended by Senator Rock and his committee under 12a for example, they have made provisions for that. They made provisions that a 2/3 vote of the joint rules committee could admit a bill. Regardless of the past times and the dates of cutoff and I supported that. The point is that if the bill has had a subject matter that has been indefinitely postponed previously in one of the Houses, then you're going to get into a hassel that it can't be dealt upon anyhow. And so as the Senate may remember I urged that we change this and asked for this proposed change in rules and the change is there for that expressed purpose. The second proposed change I made is no different from the one we had the other day. It was only that one that we changed. We made it only a bill admitted under that 2/3 vote of the joint rules, thats what Senator Trowbridge brought up rather than the idea that it could be tacked into the budget, which I agreed with him on. The other

proposed rule change that I've made was 12a and it was in addition to what had been offered by the committee as you may remember Mr. President and I said that you have made the provisions for it to come in but you made no provisions whereby it could be transmitted and I suggested we add that next to the last sentence which is now shown on your amendment it says any bill so admitted may be transmitted from non-originating body within two weeks of admission even if it does not meet the transmission deadline contained earlier. If you don't say that, I asked the Senate that day on the floor what good have we done to have 2/3 vote to bring it in if it still can't be transmitted or if there is no guarantee that it can be transmitted. So that currently, 12a if I may, would read (as proposed by the committee) the following: Notwithstanding any other House or Senate rule a request for drafting of a bill may be received by Legislative Services, and a bill may be introduced in either house after the date specified in joint rules 10 & 12 if 2/3 of a majority of the members of the joint rules committee vote in favor of its introduction. What I'm saying is let's add this sentence: any bill so admitted may be transmitted to the non-originating body within two weeks of admission (not by, but within, which means you can do it immediately, but you have up to two weeks) even if it does not meet the transmission deadlines contained earlier in these joint rules. Those are the two proposed changes that I made, Mr. President and I will be glad to answer any questions I can.

Sen. SMITH: I rise in support of these amendments. I do so with some fear in that these two joint rule changes are setting quite a precedent but I think we are living in times which maybe setting precedents between now and July 1 as far as budgetary matters are concerned, and for that reason I go along with these proposed amendments with quite a bit of concern and I think they're a great improvement, Senator Monier, over the amendments which were proposed last week which would have allowed amendments dealing with revenue to come into a committee of conference on the budget and there would have been no choice except to vote them up or down. This gives a little bit of a choice in that the bill can than be amended. It also does not tie things so tightly that the pressures on every member of this Senate would be almost insurmountable and I hope that the Senate will go along with these amendments.

Sen. MONIER: If you would just correct the record that the

amendment I offered before said exactly the same thing, it wasn't just raising revenues, I said or reduces the budget That was the main purpose as we understood from my discussion.

Sen. SMITH: My problem, however, was the revenue aspect of it. I don't mind reducing appropriations in a committee of conference, but I think its really pretty tough when you've already indefinitely postponed a revenue measure to bring it into a committee of conference.

Sen. ROCK: Senator Monier, so the record will be correct, do I understand that your recommended change as an amendment to 12a is an addition to the 12a that the joint rules committee presented to the Senate as a change in our original recommendations?

Sen. MONIER: That is correct, Senator.

Sen. ROCK: So am I correct further Senator, that rule 12a will now read notwithstanding any other House or Senate Rule a request for drafting of a bill may be received by Legislative Services and a bill may be introduced in either house after the date specified in joint rules 10 & 12 if 2/3 majority of the members of the Joint Rules committee vote in favor of its adoption any bill so admitted may be transmitted to the non-originating body within two weeks of admisssion even if it does not meet the transmission deadlines contained earlier in these joint rules?

Sen. MONIER: That is absolutely correct and the amendment that is before you would be, therefore, added to what is already 12a, as the last sentence. That was my intention and that is, I think, a good matter of record.

Sen. SAGGIOTES: I have a question of the author of the amendment. Seenator, I have very strong reservations on the amendment and for that reason I'm going to ask a couple of questions. When you speak of an amendment being offered by a committee of conference would that include a committee of conference on the operating budget as well as other committee of conferences?

Sen. MONIER: Senator Saggiotes, your asking a question that doesn't apply to the revised version. The original version that I did put in did say color or amendment by a committee of conference or otherwise unless it raises revenue etc., which implied that it would be by committee of conference. The one that we have just handed out to you changes that where it reads otherwise except a bill which has been admitted under

rule 12a which was the 2/3 rule of majority. No, I think my answer to you would have to be no it does not. In short, it would have to be one of the bills that was admitted through the joint rules committee under 12a.

Sen. SAGGIOTES: If a bill were admitted under 12a could that bill possibly be a operating or capital budget bill?

Sen. MONIER: No, well I think I'd have to body your wisdom, you're on the finance committee, it certainly isn't my intention to do that. Watch what it says, unless said bill except bill which had been and said bill and thats the second condition, raises revenue or reduced the budget. Now your asking me to make a technical evaluation as to whether a capital budget or an operating budget would raise revenues or reduce the budget. And I don't know whether I am competent to respond to that question. I think they do both. I think I'd have to ask the chair on that because I'm not familiar enough of what an operating budget classifies itself as raising revenue or spending it. I think it does both. My intention is that any other revenue bill or any other proposal for cutting cost by department or reduction of people or reduction of this or that or a way to amendment it is what I am speaking about. As a Senator my answer would be no, it wouldn't be a capital budget or an operating budget.

Sen. SAGGIOTES: Then if I understand you correctly Senator, it is your intent and the intent of the rules committee that this amendment would not apply to either the operating bill or the capital budget bill?

Sen. MONIER: I cannot speak for the rules committee. I can only speak for myself. My intent was no it would not apply to it.

Sen. BRADLEY: Senator Monier I think I understand your proposal. I think I support it but I do want to make sure I understand it. I'd like to ask in terms of a specific bill or proposal. If we were to have a bill to propose raising revenue by lets say slot machines, and that got indefinitely postponed, as I understand this that is a measure which 12a could probably come back in to us not withstanding the fact that we've indefinitely postponed it.

Sen. MONIER: Yes, but my amendment has nothing to do with that. Thats already in whats been proposed because if you look back, the answer to you is yes I won't confuse it. My amendment doesn't have anything to do with that because under the proposed joint rules it says not withstanding any

other requests for drafting a bill may come back in with 2/3 vote.

Sen. BRADLEY: Your amendment would be yes, its got to come in and also they've got to take it over there or vice versa.

Sen. MONIER: My amendment to 12a states that once it is admitted it may be transmitted within two weeks. I'm allowing two weeks, it could be done the next day. I'm saying that if you don't add that basis of 12a, my addition, that what good will it do to bring it into either House if either House says no. So that was the reason for going around that.

Sen. BRADLEY: O.K. Now if the bill is neither raising revenue or reducing the budget but is some new subject matter, and we haven't acted on it and it hasn't been indefinitely postponed, are we opening the door. I'm not sure if this is your amendment or the whole rule, but are we letting in any new subject matter if it gets through the joint rules?

Sen. MONIER: Once again my amendment has nothing to do with that. My feeling is that you are by adopting 12a as its proposed by the rules committee or with or without my amendment you are saying that any bill may be brought in by a 2/3 vote of the joint rules. I don't see in it any restrictions to it and to be quite frank with you that really doesn't disturb me at all. Now when you talk about revenue otherwise thats only what I put in on the level.

Sen. BRADLEY: If we had the bill proposing slot machines and it got indefinitely postponed, then that would not be able to come in as an amendment lets say to the budget or any other bill. It would have to start as a fresh bill is that right?

Sen. MONIER: Thats the intent of what I'm saying. The same thing would apply whether its slot machine or whether its a bill that had been in somewhere reducing or eliminating a department as it was indefinitely postponed and we get to the end of this crunch and we want to put in a bill that says that, that was my intent. There is now a way to do it, 12a says if 2/3 of the joint rules, which I think it acceptable, and I only added 12a so to make sure it gets transmitted to the other house so there can't be a thing saying well we had that here but we don't want to deal with it and if its reduction then up here as we said under here then it can be adopted by a majority vote.

Sen. SMITH: Senator if you noticed today on the bills that were introduced from the House there was one relative to pros-

titution. Now if that bill were indefinitely postponed by the Senate, that could not come in again under this rule could it?

Sen. MONIER: Now wait a minute. First you haven't convinced me that I'd vote against it. The second thing is that if we indefinitely postpone it, I don't think that has any application no matter what the bill is whether it be prostitution, slots, or an elimination of a state agency. The answer is yes it could come back in if the joint rules under 12a allowed it to come in then you could vote on it. That's still in 21a regardless if my amendment is there or not, I hope you understand that.

Sen. LAMONTAGNE: Senator, this is a matter a bit confusing to me and maybe you can explain it to me. Now I always understood that in the Senate we could not raise revenue. Now how do you expect this when it says bills raise revenue or reduce the budget?

Sen. MONIER: You're dealings with joint rules for one thing and, therefore, you're dealing with both houses so that would have to apply to both houses. I don't think I agree with you about it. I think it says the Senate cannot raise taxes or introduce a tax bill.

Sen. LAMONTAGNE: Did I hear you say correctly that you can raise revenue?

Sen. MONIER: I think you can introduce a bill under the Senate to raise revenue.

Sen. LAMONTAGNE: Well, I've always understood that in the Senate that we could not raise revenue but the way this proposed amendment would be wouldn't it be that the House could use this 12a?

Sen. MONIER: Senator, I'm not an expert on this and maybe the chair could rule on that. I think the constitution says that the House can only introduce tax bills or tax revenues. I don't think that applies here. I don't think your statement is entirely correct. I don't think the Senate can introduce a tax bill per say. I don't think its restricted from introducing revenue raising bills. But to go back to your question, since the joint rules are applicable to both Houses certainly the revenue and reduction of cost or revenue raising as needed was the main factor I was aiming at here, to allow that they can come back for consideration if 2/3 of the joint rules committee says so and its accepted into the body then 12a allows it to be transmitted for action. In short, I do not want to see manipulation of us into a corner with all revenue raising bills killed or all cutting of costs bills for the government killed and us sitting

here only waiting to find out how we are going to continue on ad infinitum. This would stop that because then you have a process to do it. I'm not sure you can get it through; but you'd have a process to do it and I think the tax payers deserve that kind of procedure.

Sen. LAMONTAGNE: I would agree with you as far as reducing the budget but as far as raising revenue I still question does the constitution allow us to do so and I'd like to have somebody rule on that.

Skn. MONIER: Once again, I'm not in a position to rule but I'm pretty sure that there has been ruling on that revenue can be introduced but a tax raising revenue cannot be introduced. I think that's a distinction. All revenue bills are not taxes.

Sen. SMITH: I think, wouldn't it be fair to say Senator Monier, that the question that Senator Lamontagne raises is that only certain tax bills can be introduced into the House. All that the joint rules is doing is approving that introduction and therefore probably a bill would have to be introduced into the House first.

Sen. MONIER: To my best knowledge as a young Senator here in terms of tenure is very simply that there are restrictions to certain kinds of taxes that must be done in the House. The restriction does not apply to other forms of revenue as I said before, I thank God there are other forms of revenue.

Amendment adopted. Joint Rules adopted.

(Senator Smith in the chair)

COMMITTEE REPORTS

SB 3, removing the authority of certain public utilities to grant free to reduced rate service in certain cases. Inexpedient to legislate. Senator Saggiotes for the committee.

Sen. SAGGIOTES: Mr. President, **SB 3** is the bill that we originally voted down with an inexpedient report and subsequently it was recalled so that we would keep it in committee to use as a vehicle for an amendment that was being proposed in the House that was running into trouble. Since that time the bill that we were looking out for that was in the House is passed the House and we have it in committee so we no longer need **SB 3**.

Adopted. (Senator Rock recorded in opposition.)

SB 78, relative to the packaging of fresh meats. Inexpedient to legislate. Senator Brown for the committee.

Sen. BROWN: Mr. President the intent of this piece of legislation was to have packaged meats, meats packaged in colorless containers so the consumer could see both top and the bottom when purchasing. The industry sometime back did use colorless containers but found it was impractical because they had to put a blanket of paper beneath the colorless container for the meat to absorb the blood, otherwise the meat would spoil and it was the opinion in testimony the bill was very impracticable so therefore the bill was inexpedient to legislate.

Adopted.

HB 102, prohibiting the removal of serial numbers from certain products. Ought to pass with amendment. Senator Bossie for the committee.

Sen. BOSSIE: As we know why the Senate President just gave me the lear, he has a very similar bill which is a Senate bill concerning the same subject. So I know he has expressed his great concern for this sort of legislation. On page 417 of the House Record Volume 32 the amendment as proposed by the House and basically that's what we are dealing with. We have an amendment that is on page 5 of today's journal which basically amends the criminal codes so that in instances of theft, instead of making it \$100 determine whether it's a misdemeanor or a felony, we would up it to \$500. So rather than if you steal a watch worth \$99 right now it's a misdemeanor but if it's a \$101 watch it's a felony. We found that the courts are congested because they have to go through the indictment process for things of this type. Well, as we know in the law, this bill was probably enacted when our compensation for serving in the state legislature was enacted. So \$200, 200 years ago was a lot of money. Now a day's \$100 doesn't buy you much. I'm not saying we should be lenient to other criminals because we shouldn't. What I'm saying is that I have great support on this with members of the judiciary who I have spoken with that it would alleviate and we would take care of

these problems at a misdemeanor level in the district court. So basically, that's what it would do. So from \$500 to \$1,000 it would be a class B felony and under \$500 it would be a misdemeanor. This is an amendment to the bill. The bill basically provides that any person who normally buys, sells, receives, disposes of, conceals, or has in his possession various items without their serial number shall be guilty of a misdemeanor. Earl Sweeney of the Department of Safety was before us. He strongly favors this bill. There is also an instance that was presented to the committee which I think you will find interesting concerning the University of New Hampshire who bought some movie and sound projector equipment. They brought it second hand and somehow it did not have a serial number. Come to find out, I don't know if it was exactly stolen but the serial number was removed. They traced it through the manufacturer who was Bell & Howell and they found it had been sold about eight times in the previous six months and so they got a good deal on it. Apparently in the end it was a stolen instrument but had been recovered and returned to those who it belonged to I guess. Anyway it was recovered and sold again to some dealer who finally peddled it to the University system and it just pointed out the need for this sort of legislation. I also know that Senator Smith is very concerned with this. We find that the bill with the amendment would be satisfactory for our needs and would not unduly hamper commerce in our state.

Sen. ROCK: I was intrigued by the comments from the Senator from the 20th district relative to a comparison of the establishment of the limits and the legislative wage. Does this bill change the legislative wage?

Sen. BOSSIE: I would hesitate to do that I assure you.

Sen. SANBORN: When you get into this serial bit on various equipment it intrigues me somewhat. One of the problems, as I understand it, in working with the police at times is that people do not record serial numbers of their equipment. Is there anything in the law or in this bill that might require people to register with the police, serial numbers so that the police can understand when they pick up something that is stolen equipment?

Sen. BOSSIE: I would be very hesitant to do that sort of thing because as we know in New Hampshire it creates a rawl every time we consider that with guns. We don't want to do it with guns. If anyone wants to record them, fine. Now we use

the example of my piano in my house. Its my piano why should I have a serial number if I don't want it? That is an issue. The fact remains that they could trace my piano because even if I did not write down the serial number I would ask the person who I bought it from, it was a 1935 piano that person would say I don't have it either but I bought it from the Stienway company in 1934. So I'd call the Stienway company they would have the serial number and thats how you could do it with this Bell & Howell recorder they had at UNH. You can find out what happens to these things from the serial number and try to trace it back that way.

Sen. BRADLEY: Senator, as you know we had a very similar bill in Judiciary which caused some concern. I don't quival with the intent here; but I'm worried that we are painting with a rather broad brush. For example, this would make it a crime if somebody simply has in his possession any piece of property from which an identification mark has been removed. It I bought your piano and was possessing it and you had written or carved your initials in the back of it, or removed. If I bought your piano and was possessing it and you it, am I committing a crime because I have a piece of property from which an identification mark has been removed?

Sen. BOSSIE: Well, I think its the manufacturers name plate, serial number or other identification mark from the maker of the instrument, not from you carving your initials with those of your wife.

Sen. BRADLEY: For the purpose of legislative history it ought to be clear that manufacturers modifies identification mark?

Sen. BOSSIE: Yes it does. Senator, I believe if you look in the Senate amendment the House amendment is where the actual bill is and so that would make it easier to understand. I'd also like to say during this committee hearing a question arose as to some of these pillows one buys from federal government and on big pillows with a big tag on it says do not remove this tag and the penalty. Everybody I know rips them off immediately because they don't want that hanging out of their pillows. This is the type of thing frankly, that if you have a piano when you want to leave it in your livingroom there is a question in my mind as to whether this is enforceable against you for possessing this and you did it voluntarily because it's your piano.

Sen. ROCK: On page 5 under paragraph 2-a do I under-

stand correctly that you are changing in that area between \$100 and \$500 dollars from the category of what is now a felony to the category of what will be a misdemeanor, as long as it is under \$500 is that correct?

Sen. BOSSIE: No. Between the amount of one cent and five hundred dollars it would be a misdemeanor from \$500 above it would be a felony.

Sen. ROCK: At the present time, prior to the acceptance of this Senator, is it now a felony to steal a watch of \$101 dollars?

Sen. BOSSIE: Yes it is.

Sen. ROCK: And what we are saying in this change, am I correct, is that we are now reducing that offense between \$101 and \$499 to the category of a misdemeanor?

Sen. BOSSIE: Yes. And I might add that a misdemeanor is one punishable by up to one year in jail and a thousand dollar fine. So stealing a \$101 watch is worth a year in jail as opposed to the next highest which is 3 1/2 years to seven. So I think putting it in its true perspective its a very fair thing.

Sen. ROCK: Senator what concerns me is that this appears to be a very fundamental change in the laws in the State of New Hampshire and I would like to ask did the committee have a public hearing on 12a and was there input from the public or was this an amendment in the committee.

Sen. BOSSIE: This is a committee amendment which was one discussed at the committee hearing on that day and we ask the sponsors whether they would object. Frankly, this is no secretive sort of thing, its not as substantial as you might consider. It would, believe me be no lawyers relief bill because this will take away business. Frankly, what happens is if a \$101 watch is stolen that is a felony, the individual gets arrested, arraigned and has to go back for a probable cause hearing, he would be bound over to the superior court, would be indicted, go to an arraignment, then it would be tried. He's been to court about six times for something worth \$101 taking thousands of dollars of the prosecutors time for the county or the state. It just isn't worth it.

Sen. ROCK: Well lets substitute if you will Senator for the \$101 watch a \$499.50 watch, do you see any problem in that area where you have made this recommended change in a committee amendment without hearing fundamentally changing the laws of the State of New Hampshire?

Sen. BOSSIE: Well, let me put it this way, this is an

amendment that would go back to the House and I would presume there would be a committee of conference at which this amendment would be discussed. I don't think its the type of thing, its not a sneaky peek. Its the type of thing that would, could spend the \$500 to have it printed up as a separate bill; but its really a decent thing and if you would ask any individual concerned with the administration of justice I think it would be a very dignified thing to do at this time. I discussed this with the county attorney in Hillsborough County and he thinks this would be great. He says he wastes so much time on these things when frankly in the plea bargaining process at the district court level its a lot of time brought down to a value of \$99.50.

Sen. ROCK: Senator, I have not tried to put myself in a position of making of judgment on the worth of your amendment. My concern is that an amendment of this magnitude making such a fundamental change going over for perhaps quick concurrence not really understanding what it was and without the benefit of a public hearing which may show that it is very necessary and worthwhile, acceptable and approvable change as the sense of being a little sneaky.

Sen. BOSSIE: Let me put it this way and put it in its true perspective. If this would have happened on May 1 it would have been overlooked but since its early we do things in a just time and I don't want a sneaky peek. I could have waited until June 29 and snuck it right through and nobody would have known the difference. Nobody would have been here you'd all be working on your bill. Thats not the way to do it. I've done it deliberately, I've done it here today and its not sneaky and its not unjust, you ask anybody, I'll hold this bill forever if you want. Its a fair thing.

Senator Monier moved that HB 102 be made a special order for Tuesday, April 19 at 2:02 p.m.

Adopted.

HB 377, relative to state aid for area vocational students. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: Mr. President, this is a very simple bill requested by the Department of Education and all it does is repeal RSA 188e relating to regional vocational education be-

cause there is another item in the statutes, a new one that takes care of the education of our students and this is removing an obsolete item from the RSA's.

Adopted. Ordered to third reading.

HB 220, relative to state bridge and town bridge aid. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: This bill is a little bit more complicated than the last bill although it just clears up a few things in the RSA. The first section of the bill removes the requirement of submitting boards approval plans and estimates and allows that to go directly to the selectmen and before Senator Bradley wants to know who the bill consists of, the preceeding paragraph in RSA 2427 says that the selectman and the mayor of the city or county commissioners of an unincorporated place together with the Commissioner of Public Works and Highways or his representative and a member of the governors council from whose district the bridge is located shall constitute the board and this is the board instead of having to refer the plans and specifications back to the board for a second hearing, they can go directly to the selectman of the town or village in which the bridge is located. The second portion of the bill refers to the costs and how born of state bridge aid. These are bridges under class II highways that are still basically owned by a town village, city or whatever and the town has to pay a portion of the amount relative to the valuation the adjusted equalized evaluation of that town, city and soforth to the state and state puts in the other portion and the only thing that it does here is changes the various amounts of valuation such as in one of those where the adjusted evaluation does not exceed five million dollars. Section two is for those between five million and 10 million dollars. It gives the percentages in each case here of what the town is liable for. Section three is for 10 and 20 million dollars and section four is for those over 20 million dollars adjusted evaluation. Part three of the bill makes the same changes or approximately in the town bridge aid where the bridge exists under a class five highway and adjust the valuation figures similarly to reach one of the towns and their various adjusted evaluation and give the percent in which the state will pay their portion and the towns their portion.

Sen. BROWN: Senator, does this in any way prevent a town from designing and building their own bridge without the financial aid or plans from the State? I tell you the reason I ask that question, there are numerous towns, Kingston is one, they went to the State for plans and estimated costs to build a bridge because it was needed. They came in with some figures between \$25,000 and \$30,000. The towns decided to eliminate the state and go on and build it themselves which they did and it cost less than \$10,000. Does this prevent a town from doing this?

Sen. SANBORN: In no way Senator does this prevent a town doing this on a class V or VI highway. This is still strictly within their own scope and they are allowed to do that if they so desire. The only thing is they would not receive any aid from the state in construction of the bridge.

Adopted. Ordered to third reading.

HB 319, providing for payment of a claim to David F. Carter and making an appropriation therefor. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the Senate this is a rather simple bill asking for \$97.50 to reimburse David Carter damages done to his bicycle by the State. The gentleman works for the state, came to work put his bicycle in the bicycle rack where it belonged and one of our state employees running a power lawnmower left the grass hit the bicycle and damaged the bicycle. The gentleman has 12 children and has a mile and a half to go to work from where he lives we think its a very worthwhile very important bill to pass at this time and the Senate Finance committee unanimously voted that we recommend this bill to pass for \$97.50.

Sen. POULSEN: Senator did either of these vehicles come under the financial responsibility law?

Sen. McLAUGHLIN: No they do not. Had the bicycle been hit by a vehicle, a motor vehicle it could have been paid out of the public works special fund but seeing how the lawnmower is not part of a motor vehicle, therefore, they couldn't pay the account and the gentleman has been waiting a year and a half to be reimbursed also.

Adopted. Ordered to third reading.

SB 31, relative to the form and use of walking disability identification on motor vehicle. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President members of the Senate, this bill would change the present law. Presently people with a walking disability are entitled to identification card to put on the visor of their vehicle which allows them to park. This bill requires the Director of Motor Vehicle to issue symbol to the motor vehicle operator with a walking disability. Such identification replaces the present card which was attached to the owners sun visor or places on a dashboard.

Sen. HANCOCK: I will preface my question with an observation. Every year I have to attest to the motor vehicle director that I have a physical disability despite the fact that I assure him its probably going to be permanent. Is there a possibility that we might somehow through this bill indicate that once a physical disability has been established by medical certification at the motor vehicle department that we do not have to annually attest to it?

Sen. LAMONTAGNE: No. Only at the time you get your new plates. When you get your new plates you will automatically get it because you will already be listed in the motor vehicle department as being disabled.

Sen. HANCOCK: You guarantee me that? I suspect some miracle might happen and I would be cleared of all difficulties but every year I have to attest to the motor vehicle department that I have a physical disability.

Sen. LAMONTAGNE: Well, as far as I'm concerned I feel that you will have no trouble at all.

Adopted. Ordered to third reading.

HB 330, relating to the reclassification of certain highways in the town of Ossipee. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President members of the Senate, this bill reclassifies four class II highway sections in the town of Ossipee as class V highway. This bill was requested by the Department of Public Works and Highways. The Board of Selectmen in Ossipee were in favor of the bill and the de-

partment was in favor of the bill. What it does, is that in the winter time these sections of the road were not maintained by the State, now it reclassifies it so that the state will take care of the highway.

Adopted. Ordered to third reading.

HB 362, authorizing the use of highway funds for the functional replacement of land and improvements required for highway purposes. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this bill allows the State Highway Department to physically replace buildings by either other state agencies or for towns. It has to do with things like the armory on the Loudon Road where they have to take a little part of it and occasionally school houses and things like that in towns. Up to now all they could pay them was the value of the building. Under this bill they can physically replace or build another school and they will have to use their own funds; but they will be able to use federal funds to supplement.

Sen. HANCOCK: I would certainly support the committee report on this. Question of right of way damages, removal of buildings and lack of state responsibility in this matter has been negligent for a great many years and I'm delighted to see that this is going to be rectified.

Adopted. Ordered to third reading.

SB 114, authorizing the inclusion of dog races in sweepstakes and drawings conducted by the sweepstakes commission. Ought to pass with amendment. Senator Bergeron for the committee.

Amendment to SB 114

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Effective Date. This act shall take effect upon its passage.

Sen. BERGERON: Mr. President, the committee heard this bill. Actually what it is doing is allowing sweepstakes races at dog tracks the very same way as we have them now at Rockingham park. There is going to be a substantial promotion by the Seabrook people and it is expected to be the richest dog race in the world. There was no opposition to the bill. The only amendment that was offered was to place the effective date, the amendment changes it to take effect upon its passage. The reason being that Seabrook Park has plans for an August race and with the original passage time it did not allow them to do this. The committee was unanimous in their recommendation.

Amendment adopted. Ordered to third reading.

HB 338, relative to fiscal year taxpayers. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: HB 338 permits tax payers who file their federal income tax on a fiscal year basis to also file their interest and dividends on a fiscal year basis. It would primarily be used by state and trust. It also would allow for the Department of Revenue Administration to more easily verify the amounts they are to receive from the interest and dividend taxes because they could then be equated with the federal income tax runoff. It would possibly bring us greater revenue from that tax.

Adopted. Ordered to third reading.

Senator Monier spoke under Rule No. 44.

Senator Preston moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 14 at 1:00 p.m.

Adopted.

LATE SESSION
Third Reading and Final Passage

HB 377, relative to state aid for area vocational students.

HB 220, relative to state bridge and town bridge aid.

HB 319, providing for payment of a claim to David F. Carter and making an appropriation therefor.

SB 31, relative to the form and use of walking disability identification on motor vehicle.

HB 330, relating to the reclassification of certain highways in the town of Ossipee.

HB 362, authorizing the use of highway funds for the functional replacement of land and improvements required for highway purposes.

SB 114, authorizing the inclusion of dog races in sweepstakes and drawings conducted by the sweepstakes commission.

HB 338, relative to fiscal year taxpayers.

Adopted.

Senator McLaughlin moved to adjourn at 3:30 p.m.

Adopted.

Thursday, April 14

The Senate met at 1:00 p.m.

(Senator Saggiotes in the chair.)

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

We thank you most gratefully Father, for the beauty of this glorious spring day. We also look forward to thy everlasting wonders of this season that lift us up and fill our hearts with joy and ever increasing hope.

As we leave this Capitol building today looking hopefully toward a relaxing weekend with our families and friends help

us to carry with us that self same spirit of renewal that; Thou art ever with us.

Depart in peace my friends.

Amen

Senator Keeney led the Pledge of Allegiance.

Senators Fennelly and Downing were away on Senate business and were excused from the session.

Senator Jacobson was away on State business and was excused from the session.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 176-178 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 176, to amend the law relative to taxation on legacies and successions. (Foley of Dist. 24; Hancock of Dist. 15; Rep. Rogers of Rockingham Dist. 10—To Ways and Means)

SB 177, relative to preventive measures for forest and brush fires. (Poulsen of Dist. 2; Saggiotes of Dist. 8; Lamontagne of Dist. 1; Rep. Taylor of Grafton Dist. 9; Rep. Barrus of Sullivan Dist. 2—To Administrative Affairs)

SB 178, relative to the taking of scallops. (Foley of Dist. 24—To Recreation and Development)

COMMITTEE REPORTS

SB 111, to conform the state statutes and regulations to the requirements of the federal insecticide, fungicide and rodenticide act. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, this is, I think, fairly described as housekeeping. In order for the State of New Hampshire to be designated as a qualified state for various purposes

under the federal environmental protection law it has itself laws which conform to the federal law. All this bill does is make some technical amendments to the state environmental protection law dealing with insecticides to conform to the federal. The bill was put in at the request of the agriculture department and the attorney generals office.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Senator Smith moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report on HB 372 not previously advertised in the journal, and without a public hearing.

Sen. SMITH: If Senator Bossie would turn to page 944 in the record of the House he will find the amendment to HB 372 which is relative to the authority of Franklin Pierce Law Center to grant degrees. The reason for the request or suspension of the rules is that the law school is planning to have commencement on May 7 and yet they do not have the authority at the present time to grant those degrees from the state and we'd like to get the bill through so that they can grant these degrees. The House held a hearing on the bill and the bill passed without any opposition and went through on consent calendar. We have a hearing scheduled for the 29th of this month, no the 21st of this month but due to the fact we need to get the bill through the sponsor requested that we suspend the rules. The committee on education met this morning with the president of the law center with their legal counsel and with the sponsor of the bill. We hope that the Senate will go along with this bill. It was amended as you will see on page 944 because both Franklin Pierce College law center have separated and become separate corporations and therefore the law center did not have a degree granting authority and this gives them degree granting authority through June 30, 1979 and on February 1 of that year the post secondary commission will have to do a study and report back to the legislature relative to their standing. I hope the Senate will go along with the suspension of rules and the passage of the bill.

Sen. BERGERON: You made reference to May 7, under

their present powers they can grant degrees until June 30, did I miss something?

Sen. SMITH: Yes. What you missed Senator was the fact that originally, Franklin Pierce College and law center were one corporation. They have separated so that the center does not now have that degree granting authority.

Sen. BRADLEY: Has the Franklin Pierce Law Center received the approval of the American Bar Association?

Sen. SMITH: I believe that it has.

Sen. BRADLEY: Further, I understand that the power to grant masters degree would be subject to approval of the ABA sometime in the future.

Sen. SMITH: That's correct.

Adopted.

HB 372, relative to authority of Franklin Pierce College and the Franklin Pierce Law Center to confer degrees. Ought to pass. Senator Smith for the committee.

Division vote: 18 senators voted yea. 0 senators voted nay.

HB 372, adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Senator Smith moved that the rules of the Senate be so far suspended as to allow HB 372 be placed on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

HB 372, relative to authority of Franklin Pierce College and the Franklin Pierce Law Center to confer degrees.

Adopted.

HB 277, legalizing the Gilmore Pond dam in Jaffrey. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President members of the Senate, the bill which you have before you is not the bill on which we will act. That was the original bill in the House which was amended and you can find the amendment on page 678 of the House record. However, it is a very short bill and I will read it to you. It says in effect Gilmore Pond in Jaffrey. The Gilmore Pond dam at the outlet of a natural pond which was constructed in or about the year 1803 and is located in the Town of Jaffrey is hereby authorized and legalized. All of this came about when Representative Ann Gordon of Cheshire Dist. 8 and a member of the Gilmore Pond Association planned to make some dam repairs and one of their members wrote to the water resources board asking for a permit to repair the dam and got a reply from them saying that since the dam hadn't been recorded in their files, it was an illegal dam and that somewhat confused the Gilmore Pond Association and so forth. The upshot of it is that they need this legalization in order to go ahead with the repairs. Now there was a rather long complicated amendment offered by the water resources board which the environment committee felt it should be separated out and which will take care of many of the dams constructed before 1850 that all fall into this class so that if the Senate would go along with the authorization legalization of the Gilmore pond dam it would be appreciated by Rep. Gordon then we will come in with an amendment or a bill to take care of the other dams that are also in this situation.

Adopted. Ordered to third reading.

HB 328, prohibiting the removal of sand or vegetation from a sand dune and providing a penalty therefor. Ought to pass with amendment. Senator Foley for the committee.

Amendment to HB 328

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

prohibiting the removal of sand or vegetation from sand dunes.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Sand Dunes. Amend RSA 483-A:1-a, I (supp) as inserted by 1970, 22:1 by inserting in line 18 after the words “(*Solidago sempervirens*)” the following (and any sand dune within 100 feet of the highwater mark of the Atlantic ocean frontage in the town of Seabrook. “Sand dune”, as used in this paragraph shall mean a hill or ridge of sand piled up by the wind and commonly found on the seacoast.) so that said paragraph as amended shall read as follows:

I. Wherever the tide ebbs and flows, it shall apply to all lands submerged or flowed by mean high tide as locally determined, and, in addition, to those areas which border on tidal waters, such as, but not limited to banks, bogs, salt marsh, swamps, meadows, flats or other lowlands subject to tidal action (including those areas now or formerly connected to tidal waters), whose surface is at an elevation not exceeding 3½ feet above local mean high tide and upon which grow or are capable of growing some, but not necessarily all, of the following: Salt meadow grass (*Spartina patens*), spike grass (*Distichlis spicata*), black grass (*Juncus gerardi*), saltmarsh grass also known as cordgrass (*Spartina alterniflora*), saltworts (*Salicornia* spp.), Sea Lavender (*Limonium carolinianum*), saltmarsh bulrushes (*Scirpus maritimus*, var. *fernaldii* and *Scirpus paludosus* var. *atlanticus*), sand spurrey (*Spergularia marina* and *Spergularia canadensis*), high-tide bush (*Iva frutescens*), spike rush (*Eleocharis parvula* and *Eleocharis halophila*), chairmaker’s rush (*Scirpus americana*), bent grass (*Argostis palustris*), coast-blite (*Suaeda* spp.), orach (*Atriplex patula*), arrow-grass (*Triglochin maritima*) and seaside goldenrod (*Solidago sempervirens*) and any sand dune within 100 feet of the highwater mark of the Atlantic ocean frontage in the town of Seabrook. “Sand dune”, as used in this paragraph, shall mean a hill or ridge of sand piled up by the wind and commonly found on the seacoast. The occurrence and extent of saltmarsh peat at the undisturbed surface shall be evidence of the extent of jurisdiction hereunder within a saltmarsh.

Sen. FOLEY: I’ll explain the bill then explain the amendment together if its alright with you. This prohibits any person not granted a permit under RSA 483-a from taking any sand or vegetation from the sand dunes from 100 feet of the high water

mark of the coastal waters in the Town of Seabrook. Seabrook has approximately one mile of excellent beach and its topped with a sand dune. The sand dunes have some vegetation and this is great when there are storms because it protects the houses and cottages in back of it, however, people come in and take the sand, take the vegetation away and if it keeps on the state will have to spend millions of dollars on the sea wall such as what happened in Hampton and in Rye and other places along the ocean water front. The town is attempting to keep the sand dunes in tact and the land all belongs to them but what they want to do is sell the land to the cottage people immediately adjoining these sands but they don't want to do it unless they are sure the people will not immediately take down the sand dunes and put patio's there or additional cottages near the ocean. For this reason they feel that this bill should pass not only for the protection of us but also in order that we don't have to spend any additional money. The amendment changes the law so that it isn't the dred people that have a hearing if they wanted a suspension but it would go to the 169 Dredge and Fill people now in charge. Representative Felch who was the sponsor of the bill saw nothing wrong with this and the act will take place upon its passage. Its a very important bill to the people in the Seabrook area and I move its passage.

Sen. PRESTON: Senator Foley just for the record, this amendment now pertains to the west side of 1-a other than the ocean front.

Sen. FOLEY: As I recall Senator Bradley had charge of the amendment maybe he could speak to it.

Sen. BRADLEY: As the original bill or I should say the bill amendment from the House came to us had the phrase in it a sand dune within 100 feet of the high water mark at the Atlantic Ocean frontage in the Town of Seabrook and that was changed from the original bill which said I think 100 feet of the high water mark of any of the coastal waters which would have gotten you in to some of the inlets or something. This is just on the Atlantic frontage which is on the beach side of the road as we understood it.

Sen. PRESTON: Senator Bradley it says wherever the tide ebbs and flows it shall apply to all lands submerged or flowed by means of high tide as locally determined. In addition to those areas, it goes on and spells out generally marshlands.

Sen. BRADLEY: Right. Now this is the general jurisdiction of the drudge and fill board, the part you just read. All we are doing is adding to those things about banks, bogs, flats, meadows, swamps all those things. We are adding to all those definitions the further definition of any sand dune within 100 feet of the highwater mark of the Atlantic Ocean frontage in the Town of Seabrook. So that part of the earths surface as well as all these other things described in the law will come under the dredge and fill law.

Sen. PRESTON: Does this or does it not effect the ocean being east side of the coastal route 1-a and the sand dune that are on the water front, does it effect those sand dunes to the west side of 1-a?

Sen. BRADLEY: Well our amendment does not effect that. I should say the bill and the amendment does not affect those. It is conceivable that a sand dune on the west side may already, under one of these definitions. I found that rather hard to determine and thats why I felt the bill was justified to make it explicit that at least, the sand dunes these people are concerned with, would come under it but I don't know whether a sand dune on the other side of the river might be considered a bank where the tide ebbs and flows and soforth and satisfy those other definitions. We aren't changing those in any way.

Sen. ROCK: Senator, was there testimony given that stated that if the Town of Seabrook sold this land that they now own to a perspective buyer, the buyer would have accompanying the deed a restrictive covenant that he couldn't move the sand or couldn't move the vegetation to do any building on it. Is that what was indicated?

Sen. FOLEY: They are attempting to protect the sand dunes so that no one can do this. Its right on the ocean front, part of the beach up to the highwater mark. Its all in front of cottages and at one time a perspective buyer, as I understand from the testimony, attempted to purchase this land and so the town bought the land and now they want to protect it from someone doing this through the dredge and fill law.

Sen. ROCK: With that in mind Senator, and the questions that Senator Preston asked Senator Bradley, do you feel that perhaps what you were told at the hearing may not have been all inclusive as what is intended by the sponsor of this bill.

Sen. FOLEY: No, as I understand it, there is a law on the books now but it did not cover the actual dunes in front of the cottages. Everything else is already in the state law and the

only thing that isn't covered is 100 feet in front of these cottages approximately a mile of real beach.

Sen. BROWN: Is it not true Senator that in relation to Senator Rock's question that people who own down there started with bulldozers and knocked these dunes down creating flooding and the sand dunes protect the flooding and this is the purpose? They sent the law enforcement officers down to stop it and to protect the land there but there was no law pertaining to it, the law enforcement agency didn't have any jurisdiction and that's the main purpose of this law—along the ocean front not west of 1-a, is that correct?

Sen. FOLEY: That's right. That's exactly what happened.

Sen. PRESTON: I agree with the original intent of this bill, the sand dunes that do run along that one or two mile section should not be removed and some people have been doing so to get a better view from their cottage. The amendment does bother me and I also agree that perhaps the sand dunes and they are the only ones of their type in New Hampshire on the westerly side of 1-a, they have a very high estatic value; but I am also concerned for the owners of these properties who in some way at some future date must be reimbursed when we are precluding him from the use of his property in any way. I know this legislation. The dredge and fill law considers the public welfare an individuals shouldn't be allowed to destroy something that might benefit a lot of people. But the individual that pays the taxes on these and is disenfranchised from the use should, in some way, be reimbursed either federally or state wise for not having the privilege that comes with the ownership of private property. I'm not speaking against the bill in any way but I think in some way we've got to relieve the burden of the people paying taxes on land that they cannot use.

Sen. BRADLEY: I rise to clear one point at least based on the testimony that was given to the committee and that is and this may happen to answer Senator Preston's concern to some extent. The testimony at the hearing was that all land within 100 feet of the highwater mark on the Atlantic coast in Seabrook is already subject to a deed restriction which prevents anyone from building in this 100 foot strip so that the same question and concern crossed my mind when I first read it but when I heard that I became satisfied that there really isn't much of a taking which would justify compensation. By reason of this law when the existing facts are that there are deed

restrictions prohibiting construction anyway so really all we're doing is saying this is an area where there can't be construction, you can't take the sand away and it seems to me that's not much of a taking.

Sen. PRESTON: Do you believe that what you're saying about the ocean front which is true in the deed restrictions, but the concern I expressed was anything the west side of the highway where such restrictions are not...

Sen. BRADLEY: Yes. I certainly respond to that by saying that the bill you're passing today is not effecting in any way the stuff on the west side of the highway I'm now assuming the highway is more than 100 feet from the highwater mark, that land may be affected by the existing law but that existing law is going to remain the same with or without this bill.

Amendment adopted. Ordered to third reading.

SB 119, relative to allowing compensation for supervisors of conservation districts. Inexpedient to legislate—withdrawn at the request of the sponsor. Sen. Foley for the committee.

Sen. FOLEY: Mr. President **SB 119** was withdrawn at the request of the sponsor and in order that the committee can keep their record clear they'd like to present at this time the bill as inexpedient to legislate and ask the Senate to go along with this vote.

Sen. LAMONTAGNE: Mr. President, I wonder if the report couldn't be corrected seeing that the bill was withdrawn by the sponsor I didn't see where there was any action to be taken by the committee with inexpedient to legislate. Now I withdrew this bill, it was my bill **SB 119**.

Sen. LAMONTAGNE: Mr. President, I have withdrawn bills in the past and therefore the committee made a report to the Senate that the bill had been withdrawn by the sponsor and this is what happened and that's the way it should be.

Sen. KEENEY: I regret any embarrassment that we've caused the sponsor but it was the committees feeling that in order to give a reason for the bill not having other action taken on it we felt it should come out with the explanation and I know of no other procedure for bringing it out of committee except this way.

Adopted.

HB 475, providing for payment of a claim to Charles R. Sargent of Laconia and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for the committee.

Amendment to HB 475

Amend section 1 of the bill by striking out same and inserting in place thereof the following:

1 Reimbursement to Charles R. Sargent for Property Damage. The sum of \$427 is hereby appropriated to be paid to Charles R. Sargent of Laconia to reimburse him for damage sustained in 1973 to tombstones in the family grave site in Gilford, New Hampshire. The damage was caused by personnel of the department of public works and highways plowing snow and large rocks into said tombstones when clearing Route 11. Said payment shall be in full and final payment for all claims against the state for said reimbursement. This appropriation shall be a charge upon the highway fund.

Sen. TROWBRIDGE: When we first heard the claim HB 475 it was a very straight forward issue. This man had said the highway department up in Gilford had run into the tombstones of a family grave and everything else and made substantial damage to the tune of \$427. That wasn't really the issue. This issue was why did we need a claim? As you probably know the highway department for some time had a provision whereby they can pay automatically as much as the **SB 4** will be coming up again today up to \$150 so rather than have the highway department then asked if we would put an amendment on this bill raising the allowable from \$150 to \$300 and that is all the amendment does is add on that general provision increasing the allowable from \$150 to \$300 and so rather than getting another bill and doing it we thought it was appropriate to tack it on to this bill which deals with the problem. There was no dispute in the committees friction as to paying the \$427 to Mr. Sargent. I move the amendment and the bill.

Sen. PROVOST: Does that mean Senator that Mr. Sargent will receive only \$300?

Sen. TROWBRIDGE: No. The bill will carry that he gets \$427 from the date of the passage of the bill the highway department would be allowed to pay up to \$300 on any other kinds of claims, not Mr. Sargent's claim.

Amendment adopted.

Senator Trowbridge offered the following further amendment:

Amendment to HB 475

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

providing for payment of a claim to Charles R. Sargent of Laconia and making an appropriation therefor and relative to the payment of small claims by the Department of Public Works and Highways.

Amend the bill by striking out section 2 and inserting in place thereof the following:

Section 3. Amend RSA 229:8-a by striking out in line five the words "one hundred and fifty dollars" and inserting in place thereof the words (three hundred dollars) and by striking out in line seven the words "one hundred and fifty dollars" and inserting in place thereof the words (three hundred dollars) so that said section shall read as follows:

RSA 229:8-a. Small Claims. With the approval of the governor and council the commissioner may use the funds accruing to his department for the payment of small claims occasioned by accidents due to the activities of his department. No such claim shall be paid to any other person in an amount of over three hundred dollars. Any person claiming damage due to the activities of the department of public works and highways in an amount of less than three hundred dollars may make application to the commissioner for payment thereof. Said application shall be filed within sixty days of the date of the accident. If the commissioner upon investigation is of the opinion that the damage was caused because of activities of the depart-

ment he shall submit his recommendation to the governor and council for approval.

Section 4. Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to third reading.

HB 187, amending the penalty provisions of the mobile home park law. Ought to pass with amendment. Senator Bradley for the committee.

Amendment to HB 187

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

repealing the penalty provision of the mobile home park law.

1 Repeal. RSA 205-A:11 relative to penalty provisions under the mobile home park law is hereby repealed.

2 Effective Date. This act shall take effect 60 days after its passage.

Sen. BRADLEY: Mr. President, the present mobile home law as passed in '73 actually provides two different penalty provisions. One a criminal penalty which is a little bit complicated and then secondly in a different provision says that a violation of the section is also a violation of the unfair trade practice law which provides another scheme of penalties. Those two provisions have created confusion as to which one ought to be followed and which one has precedence if any. The attorney generals office, the consumer office of the attorney generals office enforces the unfair trade practices law as well as the sponsor of the original bill agreed that the way to clarify the situation was to simply repeal one of the penalty provisions so that there is only one penalty provision there and the one they want to have is the penalty provision that says a violation of the unfair trade practices law. All the amendment is doing, and the amendment now is the entire bill, is to strike one of the two penalty provisions in this law.

Sen. ROCK: Senator, I'm having a little trouble here be-

cause in my pile I didn't have the original HB 187 so I turned to page 18 of the journal today and I found the amendment. Is the amendment now the bill?

Sen. BRADLEY: The amendment is now the entire bill.

Sen. ROCK: So anything on this piece of paper I can throw away?

Sen. BRADLEY: Throw away, just look at page 18 and you can see that all the bill is doing is repealing section II which is one penalty provision which leaves section 13, it doesn't make reference to it, 13 stays on the books. We only have one penalty provision.

Sen. ROCK: Could you help me now, did 187 have the penalty as it was originally 205:11-A penalty, any person excluding in attendant?

Sen. BRADLEY: The original 187 attempted to work with one of the two penalty provisions to clear up questions of confusion that come up. The sponsors purpose was somewhat narrower actually than this amendment; but at the hearing where the sponsor, the attorney generals office and Attorney Penaltion on behalf of the Bar association and the lawyer for legal assistance all came to the agreement and consensus that the way to accomplish everybodys goal in this is to make the law clear and workable was simply appeal one of the penalty provisions.

Sen. ROCK: Is what you're repealing a law that says if a person files a complaint against a land owner who has a mobile park and he's found to be filing an unjustifiable claim he's going to be fined?

Sen. BRADLEY: Yes. That is one of the provisions that would come off as you read it. However, if anybody violates any of the provisions of the mobile home park law they would be subject to criminal penalties and civil penalties and other procedures under the unfair trade act.

Sen. ROCK: Does the passage of this bill as now amended make it in any way more difficult for a tenent in a mobile home park to bring an action against a mobile home park operator?

Sen. BRADLEY: No. It presumably would remove one of the deterants that was originally put into the original law. The original law had this provision in there which was supposedly to deter people from making unjustified claims against mobile park owners. Now the testimony was from all concerned that that has never materialized a problem. The AG's office hadn't received any complaints and no one felt that that provision

was necessary. The greater concern came at the hearing. The fact you've got two different penalties on the books and that has created confusion.

Sen. ROCK: Mr. concern Senator is that we might be doing something here in the repealing of this penalty that would put the tenant more at the mercy of the park operator and with less protection for his rights and I think I'm hearing you say to me that isn't the case.

Sen. BRADLEY: No I think its an argument that can be made, I don't think any argument can be made to your point. I think an argument can be made however that we are actually making it easier for the mobile home park owner to make a complaint because under the existing law if one were to read it, he might feel he's got a grievance, but be deterred from filing his grievance because there is a pretty hefty fine if its decided that he has filed a complaint without reason or cause.

Sen. SANBORN: Senator you confuse me on that last statement that you made. You said is it the owner of the property or the owner of the trailer that gets it easier? I think you said the owner of the property. In other words it would be easier for the trailer owner to go around and get the property owner?

Sen. BRADLEY: I'm sorry I didn't say it right. Under the present law the person living in the mobile home could be deterred by the present law from filing a complaint to the extent that deterrence in the law and that is being removed.

Amendment adopted. Ordered to third reading.

HB 168, prohibiting the erection of advertising devices beyond 660 feet from interstate or federal aid primary system rights of way. Ought to pass. Senator Healy for the committee.

Adopted. Ordered to third reading.

HB 363, relative to the notices required for the layout of class I and II highways. Ought to pass. Senator Lamontagne for the committee.

Adopted. Ordered to third reading.

HB 373, relative to state maintenance of the road leading to the Bedell covered bridge. Ought to pass. Senator Poulsen for the committee.

Adopted. Ordered to third reading.

SB 4, establishing a board of claims for the state and making an appropriation therefor.

Motion of ought to pass with amendment.

Amendment to **SB 4**

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Statement of Purpose. To provide a forum where certain claims a citizen may have against the state may be heard expeditiously and fairly, the general court by this act establishes a professional fact finding board to receive, investigate and determine whether claims should be compensated and recommend the amount of compensation with the authority to authorize the payment of certain claims not exceeding \$10,000.

2 Board Established. Amend RSA by inserting after chapter 541-A the following new chapter:

CHAPTER 541-B Board of Claims

541-B:1 Definitions. In this chapter:

I. "Agency" means all departments, boards, offices, commissions, institutions and other instrumentalities of state government, including any official or employee of same when acting in the scope of his elected or appointed capacity, but excluding political subdivisions of the state.

II. "Board" means the board of claims established by RSA 541-B:2.

III. "Claimant" means any person who files a claim pursuant to this chapter.

IV. "Committee" means the fiscal committee of the general court established by RSA 14:30-a.

V. "Person" means any individual, partnership, association, corporation or political subdivision.

VI. "Political subdivision" means any village district, school district, town, city, county or unincorporated place in the state.

541-B:2 Board Established. There is hereby organized, constituted and established a 5 member board of claims for the state.

541-B:3 Appointment and Qualifications of Board Members.

I. The governor with the approval of the committee shall appoint 2 competent persons to serve as board members, one member from each of the major political parties.

II. The chief justice of the New Hampshire supreme court with the approval of the committee shall appoint the chairman of the board. The chairman shall be a judicial referee, if one is available, but if not, then the chairman shall be a member of the New Hampshire Bar Association.

III. The president of the senate shall appoint a member of the senate, and the speaker of the house of representatives shall appoint a member of the house, to serve as the 2 legislative board members.

IV. All members shall be residents of the state and if any member ceases to be a resident of this state a vacancy is created.

541-B:4 Term.

I. Each board member except the legislative members shall serve a 6 year term, however on the initial appointment the chairman shall be appointed for 6 years and the other 2 appointees shall be appointed to a 4 year and 2 year term, respectively. The legislative members shall serve a term which is co-terminous with their terms as legislators; provided, however, that a legislative member shall not serve as a board member for a term which exceeds 6 years.

II. (a) In the event of a vacancy on said board for any reason which is created by either of the 2 members appointed pursuant to RSA 541-B:3, I, the provisions of RSA 21:33-a shall apply, except that any approval or confirmation shall be by the governor and the committee.

(b) If the position of chairman of the board becomes vacant, the provisions of RSA 21:33-a shall apply, except that the appointment shall be by the chief justice of the New Hampshire supreme court with the approval of the committee.

(c) A vacancy on the board for any reason which is created by either of the 2 legislative members appointed pursuant to RSA 541-B:3, III, shall be filled by the president of the senate or the speaker of the house of representatives, as appropriate.

541-B:5 Disqualification of Board Member. A board member may disqualify himself relative to any matter before the board or if the board votes that any member has or may have a conflict of interest in any matter before the board, that member shall be disqualified to sit as a board member on that particular matter. In the event of any disqualification, the governor shall appoint an interim member to the board to serve only as to that matter. The interim member shall have the same qualifications as the disqualified member.

541-B:6 Removal. The governor with the approval of the committee may at any time remove a board member for cause, including malfeasance, misfeasance, inefficiency in office or incapacity or unfitness to perform his duties. The attorney general or chief justice of the superior court may petition for such removal, setting forth the grounds and reasons therefor. No board member shall be removed without a public hearing before the governor and the committee upon such petition, giving the member due notice thereof not less than 30 days before the hearing.

541-B:7 Compensation. Each non-legislative board member shall receive \$65 per diem for each day or part thereof that the board member is serving in his official duties and his reasonable expenses; the legislative board members shall be entitled to legislative mileage only. Any interim board member appointed shall be compensated in like manner while serving on the board.

541-B:8 Staff. The board shall have the authority, subject to the state personnel regulations and within the limits of the appropriation for such purposes, to employ and fix the compensation of such staff and assistants as it shall deem necessary.

541-B:9 Office. The board shall be provided with suitable office space in which its records, documents and publications shall be kept and with suitable facilities in which it may hold hearings.

541-B:10 Quorum. A majority of the board shall constitute a quorum to conduct hearings.

541-B:11 Jurisdiction. The board shall have exclusive jurisdiction to investigate, conduct hearings and make recom-

mendations on all claims and authorize the payment of certain claims not exceeding \$10,000 against any agency relative to which it is alleged that on equitable principles the state in good conscience should assume and pay damages, except those claims arising under workmen's compensation, unemployment compensation, eminent domain proceedings, RSA 110-A:81, RSA 207:22-25, RSA 229:8-a and RSA 491:8.

541-B:12 Powers and Duties of the Board.

I. The board shall have the power to adopt and amend all rules of procedure not inconsistent with the constitution or laws of the state, which reasonably may be necessary for the proper performance of its duties and the regulation of the proceedings before it.

II. The board shall not be bound by common law or statutory rules of evidence, but may admit all testimony having a reasonable probative value. It may exclude evidence which is in the opinion of the board immaterial, irrelevant or unduly repetitious.

III. The board may subpoena witnesses and compel their attendance, and also may require the production of books, papers and documents. Any member of the board may administer oaths or affirmations to witnesses appearing before it. Any person failing or refusing to obey any subpoena or order of the board may be proceeded against in the same manner as for refusal to obey any other subpoena.

IV. The findings and recommendations of the board or any payment of a claim authorized by said board shall only be subject to a judicial appeal by the petitioner in accordance with RSA 541. The board may by unanimous action order a rehearing on any matter before it, if in its opinion there is sufficient equitable reasons on behalf of any party to the proceedings so that a rehearing should be granted; provided, however, no rehearing on any matter shall be permitted after the board has authorized a payment of a claim or submitted a recommendation and proposed bill to the committee.

V. The board shall adopt and have an official seal.

541-B:13 Procedure. The procedure for the filing and adjudication of claims is as follows:

I. The claimant shall first file the claim in writing with the agency involved.

II. When a claim has been filed with any agency, the head of the agency shall make or cause to be made a preliminary

investigation and determine whether in his opinion the claim should be submitted to the board.

III. If a basis for the claim is found, the head of the agency shall refer the claim to the board, as soon as practical but in no event in excess of 30 calendar days after the receipt of same.

IV. The head of the agency within 30 days shall notify the person filing the claim of the date of the receipt of claim, the date said claim is referred to the board or the fact that in the opinion of the agency there is no basis for such claim.

V. If the head of the agency refuses or fails to refer the claim to the board within 30 days after receiving it, the claimant may submit his claim to the board directly, but said claimant shall be required to certify the fact that the claim had been first submitted to the agency.

VI. When a claim has been referred to the board by any agency or submitted directly by the claimant after the agency on which the claim is made refuses or fails to act, the board shall schedule such claim for a hearing, giving the claimant and agency at least 10 days written notice of the date, time, and place thereof.

VII. The claimant may represent himself or he may be represented by an attorney. The attorney general shall represent the agency.

VIII. All hearings before the board shall be subject to the provisions of RSA 91-A.

IX. The board shall report its findings, recommendations and any payment authorized on all claims referred to it to the committee.

X. If the board finds any claim warrants a payment in excess of \$10,000, it shall cause a bill to be drafted by the office of legislative services covering its recommendations and shall submit the drafted bill to the committee at the same time it submits its recommendations.

XI. A copy of the board's findings and recommendations shall be submitted to the claimant within 10 days after the board makes its determination.

541-B:14 Recommendations to General Court.

I. When a claim in excess of \$10,000 has been submitted by the board to the committee, said committee shall not hold any further public hearings on the board's finding of facts, recommendations or proposed bill, but the fiscal committee may recommend to the general court any payment to reduce the

amount of the recommended award which may be consistent with the fiscal condition of the state.

II. The claim or bill shall not be referred to any other standing or special committee of the general court.

III. The committee is authorized and required to introduce all bills submitted to it by the board into the session of the general court next following such submission whether it be a special or general session. Such a bill shall be introduced in the general court for action at any time that said body is in session notwithstanding any other house, senate or joint rule.

IV. Any member of the general court may offer an amendment relative to the amount of the appropriation requested, but under no circumstances shall the general court refuse to authorize the payment of some amount in the settlement of a board approved and recommended claim and to make an appropriation therefor.

V. No claim or bill relating to such a claim shall be considered by the general court until a recommendation has been made by the board.

VI. If the general court is petitioned by a citizen relative to a claim pursuant to Part I, Article 32d. of the constitution of New Hampshire, that claim shall be submitted to the agency affected pursuant to the provisions of RSA 541-B:13, and such a claim shall be processed in the manner prescribed by this chapter.

VII. No bill or resolution shall be introduced for legislative action by any member of the general court relative to the payment of any claim that has been denied or rejected by the board.

541-B:15 Claims of \$10,000 or Less. Whenever the board by unanimous vote finds that payment of \$10,000 or less to a claimant is justified, the board shall authorize the payment thereof without submission of the claim in bill form to the general court. The governor shall draw his warrant for said payment out of any money in the treasury not otherwise appropriated and said sums are hereby appropriated.

541-B:16 Limitation on Action and Claims.

I. All claims arising out of any single incident against any agency for damages in tortious actions shall be limited to an award not to exceed \$50,000.

II. If a claim is filed against the state for time unjustly served in the state prison when a person is found to be innocent of the crime for which he was convicted and receives a

full pardon by the governor and council, such a claim shall be limited to an award not to exceed \$20,000.

III. The payment of interest shall not be granted on any award authorized pursuant to this chapter.

IV. Any claim submitted pursuant to paragraph I shall be brought within 6 years of the date of the alleged personal injury or property damage or the wrongful death resulting from personal injury; provided, however, that the agency is notified by mail within 180 days of the alleged personal injury or property damage sustained by the claimant. Such notification may be made either by the claimant or an appropriate representative of same.

541-B:17 Claimants' Rights Against Others. The adjudication by the board on any claim before same shall not deprive the claimant of any other legal rights he may have against another party.

541-B:18 Settlement. Any payment made pursuant to this chapter shall be in full settlement of any liability on behalf of the agency which was subject to the claim and no further action may be instituted in any court of law for recovery of damages against that agency on any matter arising out of that particular claim.

541-B:19 Fees. The board is authorized to establish reasonable fees not to exceed any comparable fees authorized for the superior court for the filing of claims, providing copies of the proceedings, transcripts or records or other documents which may be required by the board.

3 Appropriation.

I. The board shall certify to the governor at the end of each month the sum of the operating expenses incurred by the board during that month, and the governor shall draw his warrant for such sum out of any money in the treasury not otherwise appropriated. Said sum is hereby appropriated for said purposes.

II. The governor is hereby authorized to draw his warrant for the payment of such sum or sums as may be provided under the provisions of RSA 541-B:15 and the same shall be charged to funds not otherwise appropriated, except that if a claim is against a department or agency which has received a legislative appropriation, the same shall be charged to that department or agency. The comptroller shall keep a record of the sums charged against funds not otherwise appropriated as provided above, and shall report the same to the general

court, together with a statement of the agency or department or function properly chargeable. The general court, shall, thereupon, by legislation, direct the transfer from the appropriate special funds of such amounts as, in its discretion, should be so transferred, for the reimbursement of the general fund.

4 Repeal. RSA 4:27-a, relative to petitions submitted to the governor for wrongful imprisonment and making an award, is hereby repealed.

5 Effective Date. This act shall take effect July 1, 1977.

Sen. MONIER: If you know or recognize any claims that we've had outside of multiple claims, I think we had one four or five years ago in a death of four or five people, do you know of any claims outside that are very regular or do we have more than one a year above \$10,000?

Sen. TROWBRIDGE: No.

Sen. MONIER: Most all of our bills then, are less than \$10,000?

Sen. TROWBRIDGE: Mike Sabchicks claim was about \$30,000 and thats the biggest claim that I've seen. All the others have been under \$10,000. There have been quite a number over \$2500 and quite a number over \$5,000 so that figure has been arrived at by experience.

Sen. HEALY: Where taxpayers money is being spent on something, I'm always very concerned. I would say that it seems as though you accomplish quite a project here on this, there is quite a bit of work entailed but one of the things that I noticed is that the change on the compensation for the board members dropped in your change here from \$150 per diem for each one down to \$65 per diem.

Sen. TROWBRIDGE: The reason we did that was because we felt it ought to be equated with some other board and the ballot law commission gets \$65 a day. We thought that was a reasonable level.

Sen. HEALY: When you came to that decision of \$65 per diem for members the legislative board members served with legislative mileage only and the others are even accorded reasonable expenses whatever the work reasonable could be, expenses I don't know how far that would go; but do you think there might possibly be a lack of patriotism here on this particular amendment you have concerning members getting \$65 a day then you have the \$100 a year legislators getting

nothing a day except the usual mileage. Do you draw good parallel to that?

Sen. TROWBRIDGE: We have any number of commissions around where legislators are to be appointed and they do not per diem and the public members do. There are I'm sure a number of people already signed up to be on the board. I don't think you have to worry about filling the board.

Sen. HEALY: In the appointment of board members you have the governor who has the authority to appoint two competent persons to serve as board members then you go down a little bit further and say the chairman of the board has to be a judicial member, the chairman must be appointed by the New Hampshire Bar Association if we have competent persons on the board why is it necessary we have to call upon the New Hampshire Bar Association to furnish us with a chairman?

Sen. TROWBRIDGE: The point is that the chairman is going to be either a judicial referee which is designed as a retired supreme court justice. There is only one retired justice now available and he is quite elderly so there is a possibility that there will not be a retired justice available, until someone else retires. Now, justice Kennison lets say, is retiring he would be a judicial referee, he would be available as the chairman but in case there were no judicial referees available then we've said to the New Hampshire Bar Association would you be the one to appoint. That was brought out to me by justice Kenniston himself.

Sen. HEALY: I have oftentimes conferred with legal minds, had lunch with them and all and interpretation of the law is common sense so I see no reason why we have to call upon the judicial group to provide a chairman. They could be members naturally I think things can be accomplished once in a while without having the lawyers take over all the time.

Sen. TROWBRIDGE: Well not the lawyers take over but here you're creating a board of claims which is a semi-judicial function, why not take advantage of lets say justice Kenniston if he retires who could be better to head up this kind of thing Senator Healy.

Sen. HEALY: When you use the word better to me thats questionable. I'm one who always likes to go along with using common sense and I think that qualified members of the board should be able to organize itself and have a competent member serve as chairman. I don't think we should always

have to call upon a lawyer every time we organize a board to go on to have some kind of organization, we always have to call upon the attorneys and sometimes I get disturbed with that part of it.

Sen. MONIER: I'm going to support this **SB 4** and the amendment to it on the basis of two or three different reasons. One is we've been assured that the amount of \$10,000 is within where most of the claims fall. In my six years in the legislature and two years in the executive branch I've watched these things go through. One of the questions that's been raised to me by some of the people at various times is about this bill in its original form is the cost of maintaining it and just on my own I don't know how many claim bills that have come through, but I've seen three or four this year already and they cost \$500 each to get them in print so that doesn't disturb me too much in terms of the cost per of the operation of this system. I am encouraged with regard to sovereign immunity and I'm going to spend just a second on it. Two years ago I waged quite a battle here on this floor to keep sovereign immunity, which always has been the common law and which, as far as I'm concerned, managed to break apart for the municipalities and I suspect very strongly and I know the attorney generals office suspects very strongly that eventually that same attack is going to be made upon the state sovereign immunity. If that ever happens, as far as I'm concerned, you're opening the doors to a flood gate. This system would at least give us a reason or a defense mechanism is probably a better term against that kind of a flood gate. The second thing is that there will be a bill coming on the floor at a later time which will create statutory intent with regard to sovereign immunity and I hope that we would say that the state is sovereign which I think also might eliminate some of these claims. There's always a legitimate aspect for claims. On that basis I strongly support **SB 4** as it is now amended.

Senator Bergeron moved the previous question.

Adopted.

Amendment adopted.

Sen. Healy requested a roll call. Seconded by Sen. Foley.

The following senators voted yea: Poulsen, Smith, Gardner, Bradley, Bergeron, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Sanborn, Brown, Bossie, Preston and Foley.

The following senators voted nay: Lamontagne, Healy.

17 yeas 2 nays

SB 4, as amended, ordered to a third reading.

HB 1, relative to the fee schedule of the recording officers.

Sen. BROWN: I rise in opposition to the present motion. As it was explained on the floor last week when it was first brought out of committee, HB 1 raises the fees in relation to the registrar of deeds in the eight counties that are on salary in the State of New Hampshire. Due to the increased cost in supplies, machines and labor some of these fees have not been raised as far back as 1959. During the discussion on the floor Senator Bossie stated he felt some of these fees were being raised to much at one time. The increase is to great. It states these fees were being raised to continue registrars, register of deeds to be still self sustaining but I agree with Senator Bossie if they did not have to raised quite so high that we could ask for a special order of business I would sit down with him and we could check to see, which we did. He recommended lowering some of the fees. I contacted the registrar of deeds through the registrar of deeds Rockingham County, Mrs. Holland. They stated that if we lower the fees they would not be self sustaining but if that was all the legislature would give them or allow then rather than lose the bill completely they would go along with it but they would not be self sustaining. Therefore, I rise in opposition and we should go against the present motion.

Sen. LAMONTAGNE: Mr. President as the special order was made at my request with the support of the Senate and at the same time Senator Bossie had asked me to look into the bill and the questions I was asking before this Senate. I have looked into the proposed bill before us at this time, HB 1, and I have found that my county as well as Carroll County were exempt from these fees so therefore Coos County and Carroll will not be part of it but at the same time, to explain further, I

thought there might have been some possible increases in the proposed bill in reference to increasing fees in cities and towns and I found that it was not in the bill. So, therefore, seeing that my county is exempt then I have no objections so I withdraw any reservation about the bill.

Senator Bossie moved to recommit HB 1 to the committee on Administrative Affairs.

Sen. BOSSIE: Mr. President and members of the Senate, basically why I do this is to permit the bill not to be killed or also permit it not to be passed. I sincerely feel that if we are to do this we are going to be giving carte blanche to registrar of deeds now. There is another bill coming up for the registries of probate. If we are going to accept bills of this nature then we should do it discriminantly we should look at the fees set forth that they want and do it rationally. On some of these bills where there was formally a fee and now a fee of \$1 and go up to \$6 now in my math thats 600 percent or 500 percent depending on how you're determining it. The fact remains that for some of the recording fees its excessive. I realize that the people who use the service should pay for it. I agree with that. At the same time, if we allow this to go through and the registries receive all this money in addition to what they receive now, obviously instead of turning some back over to the county they are going to spend it and I am just not in a position as a taxpayer to encourage that. At the same time as a lawyer and privately speaking I wouldn't be paying this fee. Certainly its the clients who would pay it. For instance now to file a uniform commercial code filing in the registry its a two dollar fee and it would go up to six dollars to take off the lien, its a two dollar fee and it will go up to six dollars. There are some that are one dollar now, like the fee for filing and indexing a termination statement or financing statement and its going to go up to six dollars. I don't want to make this a dispute between the wisdom of Senator Brown and my own wisdom but at the same time I think we should be fair, we should be deliberative and we should refer this back to committee and ask them again to look at it to see if they could bring down these costs. We don't want to send this bill to limbo we just want some changes, change them down.

Sen. SANBORN: Senator, I was very much interested to hear you say these fees go up an exorbitant amount of 600 percent. You mean to tell me that no materials have gone up any exorbitant amount such as 600 percent.

Sen. BOSSIE: Well, I have not heard it justified before in the Senate.

Sen. SANBORN: Senator, in your law practice I assume that you probably keep up to date on the latest volumes of law books and so forth about how much have those increased?

Sen. BOSSIE: Well, they certainly haven't gone up 100% or even close to it. They go up 5 or 10% a year.

Sen. SANBORN: Senator I'm glad to hear you say that law books have only gone up about 10% a year. I wish that we in the libraries and so forth could buy books at such a small increase as your law books because any books we've got to buy have gone up well over 100% within the last couple of years.

Sen. BOSSIE: Well, we are not talking really about books, we are talking about the registrar of deeds and the microfilm process that they are using. Now in your county Senator they use microfilm which is substantially cheaper than the old paper process by which they used to do it. Of course the machines are expensive and they run a very nice system, its Mrs. Hall- she is a very nice person and she does a good job. The fact remains that if we allow all of these increases to be permitted we are just going to encourage more spending and thats a very conservative thing and I would imagine that you would support that.

Sen. SANBORN: Then, I gather from your remarks Senator that the only thing that the registrar of deeds requires to maintain an office is paper and microfilm?

Sen. BOSSIE: No certainly not. They would have the various individuals who would work there. I would imagine that the most substantial cost of any registry is the labor of ladies and gentlemen who would work there. Certainly these go up. I have no problem with that. I agree it has gone up and they should get an increase. The only question is, how much and thats why I ask you to send it back to committee.

Sen. BROWN: Of all the different fees that are suggested to be raised, I think there are nine or ten of them, you picked

out one raise from one to six dollars is it not true that is the only one and that refers to the IRS?

Sen. BOSSIE: I believe Senator in going through the references you gave me that is the only one from one to six and I believe it refers to termination statements, not necessarily of the IRS but a lot of them are like from two to six dollars to three to six dollars and a number of the other ones I have no objection to. Like five dollars a page for the first page of a deed to go to six dollars. That's fair.

Sen. BROWN: You're consumer oriented as you stated here many times, are you aware that the registry of deeds offices are not self supporting that the taxpayer, your consumer is going to pick up the difference?

Sen. BOSSIE: Let me put it this way and as I've discussed this with you before. I think they should be self sustaining. In my county it is. Joe Maltais turns back in \$35,000 a year. Now if they can in Hillsboro county probably they could turn out \$5,000 profit in your county. I see nothing wrong with increasing the amounts but if we are going to give them a cut every time they come in with a bill, pass it, wow, expenses are going to go up. We are not fighting your bill. I'm just saying let us be reasonable with it. Let's cut the cost a little if we can. If we can't, that's how it goes; we tried.

Sen. MONIER: You're correct that Hillsborough is self sufficient, would you mind telling me where that \$35,000 goes?

Sen. BOSSIE: I believe it goes back to the general fund I don't know.

Sen. MONIER: Which in turn then relieves the taxpayer of the amount of money that he might have had to raise otherwise?

Sen. BOSSIE: Certainly.

Sen. SMITH: I'm a little concerned about this bill. This bill as I understand it was a House bill and it was amended by the House committee, is that correct?

Sen. BROWN: Correct.

Sen. SMITH: Do you feel that the members of the House who serve on those committees are familiar with the operation of county government and are aware of the costs that are being developed in the registrar of deeds office?

Sen. BOSSIE: Well, I really wouldn't be in a position to answer that. I would imagine a lot of the people just say hey, they want it, give it to them.

Sen. SMITH: Senator do you believe that with the large

developers who are subdividing land and making large profits that we should subsidize them every time they go to the registrar of deeds office?

Sen. BOSSIE: Certainly not. And I agree with that and I don't think we should subsidize anyone. The people who use it should pay for it.

Sen. SMITH: Is it true that the lawyers don't pay these bills, they pass them on to the client?

Sen. BOSSIE: Its obvious that that is true.

Sen. HANCOCK: Senator Bossie how many times would the average person use the registrar of deeds services?

Sen. BOSSIE: Well, I believe and I had the statistic in my mind that the average homeowner owns their home for 15 years I believe so probably every 15 years depending on if they're in the business of real estate, I would imagine say the members of this Senate would probably use it at least once every three or four years.

Sen. HANCOCK: Is it true that it really isn't a great hardship, and wouldn't be a great hardship on the average person?

Sen. BOSSIE: Well, a dollar here a dollar there. What I'm talking about is the grand advocate and its not going to kill me. Let me put it this way, in a different perspective, that most of the transactions at the registrar of deeds are not for these great big developers like Senator Smith is concerned with. Most of them are the people that have 20 to 25 thousand dollar homes that they are buying and who are hard pressed to come up with the 10% down to get one of these loans at Senator Poulsen's bank and if you want to add more cost fee free; but I'm just saying that we should be deliberate about it and if they need it and can justify it, let's give it to them, and if they don't let's not.

Sen. HEALY: I don't always agree with lawyers but in this case I see nothing wrong with having the bill referred to committee for further study. I think its practical and its understandable.

Sen. BROWN: I rise in opposition to the present motion to recommit. I don't think I've ever refused to recommit a bill in the past that I can recall. But this particular bill we've had two special order of business, postponed twice, I've sat down with Senator Bossie and we've discussed this quite thoroughly, I believe, and as I stated before the research has been done with telephone calls and conversation with the registrar of deeds. I don't think we are going to resolve anything any

further. I urge the Senate to oppose the present motion.

Senator Blaisdell moved the previous question.

Adopted.

Motion to recommit.

Senator Rock requested a roll call. Seconded by Senator Bossie.

The following senators voted yea: Bradley, Healy, & Bossie.

The following senators voted nay: Poulsen, Smith, Gardner, Bergeron, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Sanborn, Brown, Preston, Foley.

3 yeas 15 nays

Motion failed.

Motion of "ought to pass."

Adopted. Ordered to third reading.

(Sen. Bossie recorded in opposition)

Senator Preston moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, April 19, at 2:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 111, to conform the state statutes and regulations to the requirements of the federal insecticide, fungicide and rodenticide act.

HB 277, legalizing the Gilmore Pond dam in Jaffrey.

HB 328, prohibiting the removal of sand or vegetation from sand dunes.

HB 475, providing for payment of a claim to Charles R. Sargent of Laconia and making an appropriation therefor and relative to the payment of small claims by the Department of Public Works and Highways.

HB 187, repealing the penalty provision of the mobile home park law.

HB 168, prohibiting the erection of advertising devices beyond 660 feet from interstate or federal aid primary system rights of way.

HB 363, relative to the notices required for the layout of class I and II highways.

HB 373, relative to state maintenance of the road leading to the Bedell covered bridge.

SB 4, establishing a board of claims for the state and making an appropriation therefor.

HB 1, relative to the fee schedule of the recording officers.

Adopted.

Senator Sanborn moved to adjourn at 3:40 p.m.

Adopted.

Tuesday, April 19

The Senate met at 2:00 p.m.

(Senator Saggiotes in the chair.)

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, as we bring our minds to bear upon those patriots of 1775, who were so heavily outnumbered but gave of themselves even unto death, that we may live in liberty and freedom. Let us give thanks.

May the shot that was heard around the world covering the outstanding events of history, open up our ears as we con-

tinue to work and pray for the peace of this land and they that dwell therein.

May we ask thy blessing on this day.

Amen

Senator Jacobson led the Pledge of Allegiance.

HOUSE MESSAGES HOUSE REQUEST CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 722, 303, 306, 459, 671, 286, 625, 464, 227 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 722, amending the charter of the Union school district of Keene to provide that the trustee of trust funds be appointed by the school board. To Education.

HB 303, relative to the conversion of certain class VI highways to footpaths or trails. To Transportation.

HB 306, requiring that any person submitting an application and plans for construction approval by the water supply and pollution control commission certify that he has met all pertinent requirements. To Executive Departments.

HB 459, relative to septic tank information for property buyers. To Environment.

HB 671, relative to contracts between the state and the 4-H Foundation of New Hampshire, Incorporated concerning facilities at Bear Brook state park. To Recreation.

HB 286, increasing the number of fish and game commissioners from 10 to 11 by providing for 2 commissioners from Rockingham county. To Recreation.

HB 625, relative to motorboat noise level detectors. To Transportation.

HB 464, relative to the loaning authority of cooperative banks, building and loan associations and savings and loan associations. To Banks.

HB 227, relative to procedures for appointment and removal of the deputy commissioner of safety. To Executive Departments.

HOUSE CONCURS IN SENATE AMENDMENT

HB 120, making supplemental appropriations to the board of engineers and the office of health planning and development.

HB 60, relating to registration and examination fees for professional engineers.

HOUSE CONCURS

SB 41, relative to the deposit of state funds in approved banks.

SB 68, relative to notice filing in registries of deeds to show power of trustee to convey real estate.

HOUSE REFUSES TO CONCUR

SB 23, increasing the penalty for reckless operation of a motor vehicle.

HOUSE REQUESTS CONCURRENCE

First and Second Reading and Referral

HCR 2, relative to the department of the army corps of engineers assuming jurisdiction over dredge and fill control in waterways and contiguous wetlands of the state. To Environment.

ENROLLED BILLS REPORT

HB 137, requiring permission from the trap owner before a duly licensed trapper may tend another trapper's traps.

HB 186, providing for seasons and bag limits on snowshoe hares and cotton tail rabbits and defining small game.

HB 307, allowing town selectmen or city councils to set beano license fees.

HB 372, relative to authority of Franklin Pierce College and the Franklin Pierce Law Center to confer degrees.

HB 120, making supplemental appropriations to the board

of engineers and the office of health planning and development.

HB 373, relative to state maintenance of the road leading to the Bedell covered bridge.

HB 377, relative to state aid for area vocational students.

HB 330, relating to the reclassification of certain highways in the town of Ossipee.

HB 319, providing for payment of a claim to David F. Carter and making an appropriation therefor.

HB 184, relative to minimum insurance coverage required for aircraft operated for hire and relative to requirements for security deposits and self-insurer certificates.

HB 141, clarifying the authority to maintain traffic control upon entering the state highway system.

HB 71, to reclassify a certain highway in the city of Dover.

HB 25, relative to the maximum amounts of group life insurance for employees.

HB 200, permitting a court to require a delinquent child to make restitution.

Sen. Lamontagne for the Committee.

COMMITTEE REPORTS

SB 123, relative to the power of certain colleges to grant degrees. Ought to pass. Senator Blaisdell for the committee.

Sen. BLAISDELL: Mr. President members of the Senate, **SB 123** grants five colleges the power to grant degrees subject to the continuing approval of the post secondary education committee. These colleges by the way have this power now, it just extends it and of course the dates are a little longer if you notice the bill. The committee, James Bussell from the post secondary education committee stated that its somewhat of a burden to have to go through this exercise every two years unless its necessary. I might add that the post secondary education commission made all of these recommendations and we ask you to pass the bill.

Adopted. Ordered to third reading.

HB 147, relative to the employment of an auditor by a

school district. Ought to pass with amendment. Senator Sanborn for the committee.

Amendment to HB 147

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Officers To Be Chosen. Amend RSA 197:14, I (supp) as amended by striking out said paragraph and inserting in place thereof the following:

II. The officers of every school district for which the law does not otherwise provide shall be a moderator, a clerk, a school board of 3 persons, a treasurer, one or more auditors and such other officers and agents as the voters may judge necessary for managing the district affairs; provided, however, that when voters of the district direct the school board to request an audit by the municipal services division of the department of revenue administration or independent public accountants from outside the district, they shall not be required to choose auditors for the year covered by said audit.

2 Effective Date. This act shall take effect 60 days after its passage.

Sen. SANBORN: I think that the amendment is on page 6 of today's report and if you note carefully the amendment says RSA 197:14 the original bill said 197:16 and this is a very good case of why we shouldn't have a unicameral type of legislature because it would have gone 197:16 through and taken two years before they found the mistake. 197:16 is relative to who is eligible to be an officer in the school district and 197:14 is relative to who the officers of the school district are and basically the only change here that the law requests, is an auditor of the school district, the school board, the school district has the right to either have their own auditor or if they don't agree or feel that the books require a much deeper audit may have, under the present law, the bureau of revenue duly audit it. While LaPlante and his group are so busy doing auditing that it may be two or three years or more before the auditors can ever get to the school books in your district. The change here is a district may choose a private auditing concern from outside of the district to come in and audit the books. It gives

them a third choice between their own auditor, the state auditing or a private concern auditor. This is the only change.

Sen. ROCK: Senator, I have no quarrel with your report. Did you say that Mr. LaPlante and the Division of Revenue Administration had trouble keeping up with the work he has to do now?

Sen. SANBORN: That was the report that was given us and it may be two to three years before they could come in and audit your books.

Sen. ROCK: That is the same department that is looking for several pieces of new legislation to give them more work to do senator?

Sen. SANBORN: I believe that between them and representative Bednar that they are trying to get some other pieces of legislation through.

Amendment adopted. Ordered to third reading.

Senator Monier moved that the rules of the Senate be so far suspended as to allow a committee report on HB 79 and HB 101 without proper notice of a public hearing.

Sen. MONIER: We have two bills like this today. They were reported from the EDA unbeknownst to us because of the snow storm. They were both posted in but never got printed. The hearing was held, people were notified and its my understanding that we must make this kind of motion in order to proceed and its for that purpose I make the motion. I urge my colleagues to allow the suspension for that purpose.

Adopted.

HB 79, relative to the location of cemeteries. Ought to pass with amendment. Senator Preston for the committee.

Amendment to HB 79

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Cemeteries; Locational Limits Changed. Amend RSA

289:2 by striking out said section and inserting in place thereof the following:

289:2 Location. No cemetery shall be laid out within 100 feet of any dwelling house, schoolhouse or school lot, store or other place of business without the consent of the owner of the same, nor any enlargement of existing cemeteries within 50 feet, except when the land so laid out is at a greater distance from such other property than the original cemetery for the enlargement of which such lands shall be taken, and except that such enlargement may be laid out within 50 feet of the right of way of all classifications of highways.

Sen. PRESTON: Mr. President, the amendment is on page 5 of todays report calendar and is essentially the whole bill. It states that no cemetery shall be laid out within 100 feet of any dwelling house, school house, or school lot, store or business without the consent of the owner of same property. Any enlargement of existing cemeteries within 15 feet. There was no opposition to this bill whatsoever and it changes the wording in the statutes to feet from rods.

Sen. SANBORN: Senator, did I understand you to say 15 or 50 because my book says 50?

Sen. PRESTON: 50.

Sen. SANBORN: I note you said you're doing away with rods and going down to feet, how soon can we expect a bill in changing it to meters?

Sen. PRESTON: I don't know that yet Senator. I anticipate we would see one in the near future.

Amendment adopted. Ordered to third reading.

SB 144, amending the definition of a "dam" in the RSA chapter on dams and flowage. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: **SB 144** comes to us at the request of the Water Resources Board. The current definition of a dam is a structure in or across a lake, pond, river, or stream designed or intended to impound all or part of the waters thereof. The water resources board would like to have it read that it means any artificial barrier including a pertinent works which does or

will impound or divert water. I guess the difference lies from a change between designs or intends to impound replace by does or will impound or divert.

Adopted. Ordered to third reading.

HB 315, permitting trustees of trust funds of towns to hire or employ trust departments of banks to assist in the management and investment of trust fund resources. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President this is permissive on the part of the trustees of trust funds. The primary purpose of the bill is to allow the trustees to obtain recordkeeping service from banking institutions. There was no opposition to the bill. They would like this permissive legislation to allow them to make use of the banks perhaps for just recordkeeping purposes and not be in conflict with any of the existing statutes.

Sen. KEENEY: Is there normally a charge for such a use and will the trustees be able to undertake a charge without selectmen's knowledge or o.k.?

Sen. PRESTON: I think that they now pay some type of commission or fee for the trust services and advice of the bank. That particular subject as far as paying for the record keeping was not brought up but according to Mr. LaPlante the Municipal Services Director, this in itself would take care of the problem. I do not know specifically whether I can answer your question or not Senator.

Senator Bergeron moved that HB 315 be laid on the table.

Division vote. 16 senators voted yea 6 senators voted nay.

Adopted.

HB 101, enabling towns to join together for the purpose of watershed management. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President HB 101 would allow the towns to band together for the purpose of watershed management. The problem is that they are not now authorized to appropriate money jointly for this purpose.

Adopted. Ordered to third reading.

SB 126, relative to a police officer's attendance at public functions. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this bill is strictly for the detailing of police officers to special duties. The present law requires the mayor or the selectman of a town upon application to assign police officers. This bill would have the police chief exercise his discretion to such a need.

Sen. BOSSIE: Senator, isn't it true that this would allow the chiefs of police to assign police officers for extra pay?

Sen. PRESTON: That is correct.

Sen. BOSSIE: Is it possible with your bill to allow the chief of police to have his little favorites that he would send out on little projects and those that he doesn't favor would not be treated as equally?

Sen. PRESTON: I think that would be very possible Senator; but the reason for this bill is because the shortage in Manchester of qualified police officers to be taken off regular duty to work in a particular lounge in Manchester as they could use them on patrol duty and they presently have to go to the mayor for this and they are asking that the police assign them if available.

Sen. SMITH: Under the present law the selectmen or whoever—the board may say that somebody will go but even under the present law doesn't the chief of police pick who will go?

Sen. PRESTON: I checked in my community and the police chief does have a roster of those who are available or maybe off duty at the time but according to the statutes they still have to go to the selectmen or the mayor of the town or the city.

Sen. HEALY: Senator, in the City of Manchester for example, the police have the authority to designate police officials to these lounges or wherever they are requested. Now, one time back the problem existed whereby a police officer became involved in a tussel with members that were gathering in a restruant and there was quite a bit of damage resulting therefrom and also injuries now there was a possibility of legal action. The officer as I understand was left holding the bag in this particular case where injury was involved, what in this bill gives these officers protection if any?

Sen. PRESTON: I see nothing in this bill that does that

Senator Healy. What it does is under the current law, Mayor Stanton has to have the police assigned, but I don't see where it covers the subject you're talking about at all.

Sen. HEALY: Now, for example if a lounge is having a program on a Friday night, which is very typical in Manchester, Friday night is one of our lounge nights and sometimes these lounges are not very pleasant to be in. Now, if an officer is assigned to a particular lounge and he doesn't want to attend that program, he doesn't want to participate in that particular duty, must he attend by this rule here?

Sen. PRESTON: This wouldn't change the process of what they must or must not do. It changes the authority that does the assigning to the chief of police.

Sen. HEALY: Lets assume we have a request for a police official at a particular function and we can't seem to come up with a police officer who wants to attend that particular function even at the salary he would receive, what then? This makes it sort of a mandatory affair where the police must provide an officer in attendance.

Sen. PRESTON: Well, they attend on an available basis as I understand it. I cannot answer your question perhaps Senator Bossie could answer that better than I Senator.

Sen. HEALY: Could my brother legislator from Manchester explain to me the possibility of legal responsibility in this bill here?

Sen. BOSSIE: Well, that's what did bother me and I do know that the City of Manchester, when I was in service as an alderman, had a problem with regards to these off duty policemen who are assigned and its considered favorable duty because it pays \$5 an hour but they really like this overtime whereas a policeman on the books makes ten or eleven thousand and he makes two or three thousand more by this overtime. Basically, what the problem is on these is workmen's compensation and does the city provide it? I think they have resolved that to some extent but I don't see the need for this sort of legislation. I'm very interested in it.

Sen. JACOBSON: All the discussion has been on Manchester but this also affects New London too. In the law as written it says that the police chief shall decide whether or not to detail any police officers. Does this mean in fact that the Board of Selectmen who would want to detail the police officer some place cannot do it?

Sen. PRESTON: I would not say that. I would say that the

police chief acts under the direction of the board of selectmen and I would assume if they directed a policeman to be placed in a particular place the police chief would abide by it.

Sen. JACOBSON: Then would you explain to me what it says here to decide whether or not to detail any police officers under his command to attend such a function?

Sen. PRESTON: I don't understand.

Sen. JACOBSON: It says here line four of the act to propose change in the statutes decide whether or not and it goes back to the chief of police, superintendent, city marshall, decide whether or not to detail any police officer under his command?

Sen. PRESTON: Well it's very clear that he would be the one now having the authority to make that decision. But I would assume if he was at all politically astute Senator he would do what the selectmen told him.

Sen. PROVOST: Senator, would you think that the chief of police would know more where to put a police officer than a selectmen or somebody else?

Sen. JACOBSON: Senator let me respond by saying that I've been a selectmen for the past four years and I've had a continuing battle as to where the police are to be. They want to be out on 89 catching speeders from out of state etc., we want them in the town of New London to do the police duty for which we are paying them.

Sen. HEALY: I think that Senator Provost's bill may be a good bill in some respects but I don't think it outlines enough detail to be acted on under these condition. Already in our city places that have amusements and lounges and soforth they already require the attendance by law especially if liquor is being served, they are required to attend these lounges. They are required to participate and see that decorum is maintained at all times and sometimes its not really. For example I want to point out a case that happened about a month ago or more in which a club was having a Sunday night program and at the same time there happened to turn out instead a shooting case. In this particular case the sargeant involved was a Manchester police officer and as a result of this session and this little shooting program where they were playing at the good times at the moment the shooting occurred. He was recently demoted. When going to court he was free, the arrested suspect in the case who was a victim of shooting also and a second man was shot while the suspicious character just yester-

day was released of guilt in the case. Now an officer has been demoted and I'd like to know what's going to happen in the future where two people were shot in this particular case. It seems to me there is going to be some responsible action and some legal action and I know there are a few lawyers in Manchester always willing to accept a few cases like this. In fact if I were a lawyer I'd be bidding for one of them. So I'm wondering if this bill will fill the requirements that are intended for it.

Sen. TROWBRIDGE: Senator Healy do you realize that sometimes bills like these come in that are not intended to size up all the problems of the police community in Manchester and that it is a very narrow bill as to just whether the selectman appoint or the police chief appoint, are you aware that all this bill deals with and it doesn't deal with anything else?

Sen. HEALY: Yes. I am aware to that extent. It's a wonder to me it doesn't use the word reasonable in it.

Sen. TROWBRIDGE: Well, if that is all it deals with Senator Healy why do we have to discuss what happens with the legal ramifications which are not the subject of this legislation?

Sen. HEALY: Senator I would say because if I were the chief of police or a selectman I would question the reasons why on the particular thing here. I would say why is it necessary to have this bill and I think we are here to furnish what we intend as good bills not questionable bills and I think this would provoke a selectman or a chief of police who already knows his job and I think it's just a superfluous piece of legislation that should be more explanatory if its going to pass, if its going to be put into the books.

Sen. TROWBRIDGE: Senator Healy is it not possible for us in a bill to handle one situation namely who appoints the policeman without having to have in the bill rewriting all the rules on who's liable. Because up until this time Senator Healy it has been possible in this Senate to discuss a bill on its point and not on every other point.

Sen. HEALY: My answer to that is appointments are easy to make but the consequences can be bad so why do we need this if its already in affect?

Sen. TROWBRIDGE: Its not already in effect. Right now the mayor has to appoint. Right now the mayor of Manchester technically has to appoint. What Senator Preston is trying to

get across, unsuccessfully so far, is that they are now trying to say that the chief of police will appoint but there is no change in the rules as to who is liable for what. Do you understand that?

Sen. HEALY: I understand it perfectly well. But I think policing duties to answer respond to the police department and not the mayor of the city of Manchester or any other mayor.

Sen. MONIER: I'd like to have the Senate understand clearly that this particular bill that was reported out had no opposition at the hearing which doesn't necessarily mean that it shouldn't be opposed. Secondly, it is not changing a single blessed thing except one thing and that is that the selectmen, mayor, will no longer select the officers that go to these various things that will now be done by the police chief in every city. So nothing else is effected and I wish that the Senate would just vote on that merit and either vote it down or vote it up.

Sen. SMITH: Mr. President, I rise in support of the bill. If I want to have a circus at my house and I need some police protection under the present system I have to call a selectman. The selectman have to call the police chief, the police chief then has to find out whose on duty and he calls the selectmen back and then the selectman calls me. Now this may take quite a bit of time. Therefore, Mr. President, I'd rather call the police chief.

Sen. JACOBSON: Senator, I presume that you're not going to have this circus on the spur of the moment that you make some plans in advance.

Sen. SMITH: But there are a lot of plans Senator to make when your having a circus and this is just one minor detail which I'd like to be taken care of easily.

Sen. JACOBSON: The interesting part of this bill is that he decides whether he's going to send one or not. Not whether you're going to have one or not, he's going to decide that. What if he says that he doesn't want to send one to your house what do you do then?

Sen. SMITH: I think if the police chief feels that he has other priorities and there is a shortage of police, then probably he shouldn't but I think in most circumstances that the extra police they are the ones on call who would be more than delighted to have that extra pay and service to perform and I don't think this bill has anything to do Senator either with catching those on the way to Montreal on 89 or those on the

way to Littleton on 93. I think its a very simple little bill.

Sen. DOWNING: Senator Smith don't you feel that it would be better to clarify that you could make the request of either the police chief or the selectmen? And that would take care of both the cities and the towns.

Sen. SMITH: Having been a precinct commissioner in the Town of Plymouth, we had four different people you had to go to if you wanted to burn a little brush fire, we finally got that changed around so that you just had to go to the fire station and request a permit. I think the present system is just another piece of bureaucratic red-tape to go through all of this procedure. It seems to me its very simple to make one phone call to the police chief and maybe I don't want everybody in town knowing that I'm going to have a circus at my house. It just makes it very simple and straight forward arrangement.

Sen. DOWNING: Then you wouldn't have any problem if the individual wanted to call the police chief or the selectmen?

Sen. SMITH: Well I might have to wait a long time because sometimes in our town its very hard to get a hold of the selectmen. Some of them dig graves, some of them are retired. We do all kinds of funny things.

Sen. DOWNING: I can't help but feel you're not listening Senator. You can call either the selectmen or the police chief and you don't have to call the selectmen if you don't want to. Wouldn't that leave you the best of both worlds to choose as you want?

Sen. SMITH: No. I think with a selectman they are always out and around whereas you call the police department and find somebody there that will answer the phone, we hope.

Senator Downing moved that **SB 126** be laid on the table.

Division vote. 7 senators voted yea 14 senators voted nay. Motion fails.

Sen. SANBORN: Senator, who would you fell is the most competent of knowing that he had people available to take care of your circus or Littletons carnival or whatever it is, the chief of police three selectmen scattered god knows where?

Sen. SMITH: Well I would think that the police chief would, very definitely the police chief would and I have a card here in case this bill does not pass that I think should be distributed to all members of the Senate. It says have a prob-

lem with government red-tape need help, call Senator Rock. If you need one of these and this bill fails, Senator Rock will have plenty available.

Sen. MONIER: Senator, would you be kind enough to let me know the next time you have a circus at your house?

Sen. SMITH: Will do.

Sen. LAMONTAGNE: Mr. President, members of the Senate first I don't see any need for this law at all because in the first place when any carnival comes into a town they usually send a communication to the mayor and council and the mayor and council give instructions of what is supposed to be done at that time. Same thing is being done with circus and it is compulsory to have an officer at a public dance. I don't see any need of it.

Sen. PROVOST: Senator Lamontagne if you need a policeman you have to call the mayor of Berlin, where would you reach him?

Sen. LAMONTAGNE: Mr. President and members of the Senate, I believe that the honorable Senator didn't hear what I said. I said that a communication is sent to the mayor and council and the council sends the communication to various department heads with power to act.

Adopted. Ordered to third reading.

(Sens. Jacobson, Bergeron, Poulsen, Keeney, Healy, Lamontagne recorded in opposition.)

SB 143, relative to the qualifications of municipal planning board and conservation commission members and authorizing municipalities to reimburse members for certain educational expenses. Inexpedient to legislate. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, we feel that the purposes of **SB 143** are lottable. It would require that every member of the planning board or conservation commission avail himself or herself of a course in the study of soils. This certainly would preclude a lot of percurious development and we were in sympathy the objectives of the act. However, it does mandate that a committee member do this and it does require that the community pick up the cost on it. This we thought would be unwise to require. The other

thing is that it was not pointed out what the approved course might be or who would conduct it under what circumstances. So with those objections in mind we deemed it inexpedient to legislate.

Sen. DOWNING: Mr. President as a cosponsor of the bill I rise in support of the committee report. When the bill was formed it was formed on the basis that this course was going to be available throughout the state. It was of no cost to public officials and we found the situation to be otherwise and it would be quite an expense on the communities, in spite of that information which is completely opposite of the basis which the bill was developed on, I support the committees report.

Adopted.

SB 159, to implement a special state referendum with respect to state revenue sources and making an appropriation therefor. Majority report—Ought to pass with amendment. Minority report—Inexpedient to legislate. Senator Monier for the majority. Senator Preston for the minority.

Sen. MONIER: I don't mind a nasty telegraph attacking my bills at all; but when they attack me I don't like it so therefore I would like all of you to understand something. The National Telegraph has said this is a lousy bill etc., and they are entitled to their opinion and I might add they are joined by the Concord Monitor and the Portsmouth Herald which doesn't surprise me and probably proves that what we are doing is right but the second thing is when he increases this and and says this: "good grief, the only thing that's not on the list of state is state operated brothels the probable reason for this solution is Senator Monier didn't think of it." Now I don't mind you attacking my bill but don't attack my manhood. I can think of those things if I want to; but quite frankly the referendum to me is here for a particular purpose. Ever since January when we entered into session, actually back in December when we entered the session, I had listened to the consistent negative cry that has arisen with respect to the New Hampshire State fiscal condition. What I've observed in that period of time is a constant barrage of verbage from a whole group of respectable people with respect to raising revenues, the needs for increasing services and the resistance to cuts in government

costs. In January on this floor I made a rule #44 speech in which I asked that the Senate carefully consider the fact that we are faced with a fiscal dilemma. In short, I recognized it existed. I asked at that time the simple fact there are two ways to take care of a fiscal problem of this nature. One is of course to increase revenue and the other of course is to cut cost. There aren't any other ways no matter how you want to cut the pie. To some people this is too simplistic to the guy that goes to work at 7:00 in the morning with his pail and the guy that is working 8 hours a day to pay those costs, it is very simple and very realistic. I've listened to this variety of barrage to all of us since then as well as the experts and the experts concern me. Concord is well known as being the headquarters for every special interest group that exists in the State of New Hampshire and unfortunately some of us wind up in some cases listening to them rather than to our people that elected us. The experts themselves are aimed to make certain and it's a matter of official record in the legislative facilities committee, on this floor, and in the newspaper accounts of variety of news, releases, and a variety of news conferences that come June the people of New Hampshire should be convinced that we have a serious budget crunch but more important that nothing can be done about it at this time. That to me is an impossible statement to accept and I will not accept it. If we recognize from January to April that we have a crunch and there is a necessity of meeting our obligations then there is no reason in the world that those same people should be continuously stating publicly that we can't do it by July. If you can't do it by July, then I for one have to be suspect of the reasons why we can't do it by July. Now that's one area we've been hearing continuously throughout the state. The second thing is the same thing, the same grouping of people and saying the same thing for the expressed purpose of making sure that the budget is produced and it will be on time because it has to be by law. Here then we are faced with the possibility we will have a budget that is either too short, too small, too hacked up, too cut up for anyone. Any of us, anybody in the executive or anyone outside to accept unless we arrive at July 1 once again with the capabilities that we must continue in order to solve this program. As far as I'm concerned that's a framework for negative action and as such I stand right here with the rest of us and say that I will not and cannot accept it. Some of us, to be exact on the bill so far anyhow, have the gut feeling the

feelings and desires of the taxpayers and the voters with respect to this basic issue which everyone seems to agree is the key factor in this particular session is being ignored, that is the voter, the guy that's going to pay it. He's either being ignored, he's being manipulated in terms of the kinds of pressures that are brought to bear on him or the resolutions of these problems are being channeled toward a direct effort, and everything except being sound and trying to meet the responsibilities of accomplishing our mission by July. The referendum is a direct purpose an objective to respond to that once and for all. Toplace before the legislative bodies and the people that are within it what are the desires of the voter with respect to basic and major issues. They are the basic and major issues I don't think anyone would disagree on as being singular factors. The first is to determine if they really desire a continuation status quo, an increase even if necessary or a cutting of state services if this would mean reducing or increasing as the case may be their taxload which in turn is directly reflected in terms is. The second issue if it is desired to maintain the services which we have heard continuously would have to be cut and they recognize and I hold the voter as being a responsible person, he does recognize but you cannot maintain and increase state services without additional revenue and to pretend otherwise is foolish. They are not that dumb. As a matter of fact they are pretty smart in some cases they may be smarter than we are. Not by any philosophical means I might add but in the purpose of the interest groups that are represented here in Concord as vis-a-vis the interest groups of the person who's going to do the paying, John Q. Public, invariably he ends up paying the bill. Now those are the two key things that I think are at the basis of all arguments discussion, press releases, dissemination, propaganda, public relations anything else you want to call it with respect to the fiscal crunch that exists today. We have been told and the people have been told and as a matter of fact we've been bombarded with it that it is necessary to raise revenues; but also they have been told not to do it in certain ways. No opportunities have been offered as to how to do this. As a matter of fact if we had spent one half of the amount of time that we have in telling them how it cannot be done and why they should not be done that way and at the same time telling there must be something done, then I'm sure maybe we wouldn't have this kind of a crisis because they might have spoken to us a long time ago. I have

not heard and I defy anyone sitting here to show me any similar public relations effort not deliberate but just existent in which the effort has been to inform the public that there are second alternatives to these kinds of crisis and that is cutting government costs and meet current revenues. It has never been put forth, except of course in the original budget that the governor provided this legislature to deal with and that of course has gone under all kinds of traumatic experiences including road shows, analysis by all the experts, editorial writings from behind a desk and so forth and so on. I agree that it is our responsibility to meet this and as a matter of fact today I stand here as part of that responsibility. I have no objections to stating quite frankly that I will be in no better position after July to resolve this question as I am now and I don't think any of us will be. So let's talk about that suspect. I suspect that some of the alternatives or the reasons for moving beyond that date is so that we can concentrate on a single issue, so that we can continue to bombard our people in this state with whatever our particular beliefs are philosophically, never mind whether they are responded to or not until perhaps they will be taken up at the next political election. We've already got people announcing candidates for that. According to the experts today that are dealing with this situation in our state problems, there only seems to be one choice and that is there has been a concerted effort to make certain that voluntary methods of raising money or to cutting costs have been downgraded put into obscurity or not left for public consumption. I happen to agree with some of my opposition with respect to this matter. Those that feel that government should do everything and continue to expand and go and cost more and that they do require additional revenue, I would agree that if you are going to expand government, if government is going to continue to resolve all our problems, if we are going to continue to have new acts, new services, to take care of those interests of the taxpayer where in many cases they take interest of special groups, then you will have to raise revenue. I agree but I do not agree that this is necessary and I do not agree that that's what the voters want nor do I agree that it provides better government. More input if the voters want this, it's needed so that the rest of us up here will wake up. I am not at all sure that this is wanted through mandatory taxes whether it be sales or income tax or any other kind these two items seems to be the crux of our current major issues for

revenue raising at one time or another and I'm not at all sure that its wanted by gambling and then before you ask me how would it be handled my answer is I don't know. But I do know one thing, that if you cut off both mandatory taxes which supporters do not want and you cut off voluntary taxation through some forms of gambling which we don't want and the people are supposedly saying they don't want, then you have only one alternative lefts and thats to cut the cost of government. So when I am told by the Concord Monitor, the Portsmouth Herald, the National Telegraph and some of my colleagues that thats the time when you should stand up and be counted, I say to you now is the time to stand up and be counted. Don't wait until after July, thats a cost of a special session or a continuing session. I don't know that you're going to have any more revenues then, you're still going to be faced with two simple frameworks which you're going to be able to raise revenue or to face that basic decision that you will cut costs. In short, there seems to be a recognition by some of us and some other people as well that we walk by different drum beats, thats perfectly all right with me that what makes democracy. I'm not afraid to find out which drum beat I should follow and whether I'm following what I think is the correct one. I hope the rest of you will not be also.

Sen. HEALY: Senator Monier I think the principle and list of your questions here are worthy of consideration. Number one, I'm not opposed to the questions but I'd like to ask you the question isn't this the first time in the history of the state that we had to call upon the people in a referendum to ask them to tell us what they think about how we should vote after electing the support them in the State Senate?

Sen. MONIER: My answer to that is the first time there would be a statewide referendum of this type but its also the first time we are in such a terrific budget crunch so, therefore, there may be a reason for it.

Sen. HEALY: I note that there is a request here for the sum of \$25,000 to be appropriated by the Secretary of State to carry out this act. Right now, as of today, we are having a special election which is a costly election in the city of Manchester and every year we have several special elections in the city of Manchester and all these elections are costly so I'm going to ask you Senator if you don't think there may be some way that this can't be presented to the public in the form of say a poll by newspapers, radios or other media to come through,

print this and submit this to you people, the Senators or to the State Senate in general for a good survey or good report on just what they think about this whole set up. Why do we have to go and spend a whole lot of money to get people out on a Sunday afternoon and ask them to go to the polls again after they have been to the polls at least a half a dozen times within the past couple of years. I think they are sick of going to elections.

Sen. MONIER: My first response to you is that I have heard no objections from people holding the special elections. Number two, I agree that its costly for the city of Manchester and for your information it would probably cost somewhere around \$15,000 for them to hold an election like that. I got this from the Secretary of State and don't want to be held responsible for the exact figure. I think Senator Healy, however, that if we continue the way we are doing and something is not done about raising revenues or something is not done about cutting cost of government and it doesn't seem to be a tendency to want to do this, that its going to cost them one heck of a lot more than that. I have queried my people in my district, they do not have that objection to this. They would like to speak to this issue. Part of your second question about the newspapers doing this, my answer to that is, fine, would you listen to the newspapers as you would to a calculated vote run by the Secretary of State? I think the way to put this on record officially and in the hands of all the voters is to do it by an election. One of the biggest questions was that if we held these elections on Saturday or Sunday we'd have a much higher voter turnout and the reason I did it was because I want the highest voter turn out as possible on this so that there is no question about it that you have a response from the people. To the last part of your statement, that they just elected it and have they had the same identical bombardment of public relations with respect to the rating of revenue need, the providing of services, the wholes of gambling, the answer is we were going to have this kind of a crunch and all of us had one on that and that alone then I would think we would not have to have this because some of us wouldn't be here.

Sen. HEALY: Senator Monier could you kindly tell me this; number one, would you concur with me that it might be possible to use this as a poll even if we had to advertise it rather than going to the expense of spending \$25,000 through the state and then having a special election to cost the city of

Manchester \$15,000 which I don't concur on doing?

Sen. MONIER: No I don't agree it would do the same.

Sen. HEALY: In general, would you say that we are shirking our duty on not being able to carry out the functions of the state senate and come up with our own proposals and vote on same?

Sen. MONIER: The answer to that is obviously no since I'm the sponsor of the bill.

Sen. BRADLEY: I basically don't think we should run the state by referendum. For the most part we should make the decisions ourselves; but I think I go along with you that this perhaps is an extraordinary enough issue that we go to the voters and find out what their thinking is. Now one of the things that troubles me about your bill is actually a quote that was described to you I think at least in two different papers I read to the effect that you were proposing this bill to head off the efforts or thwart the efforts to impose a broad base tax in this state. Is that a fair statement of anything you've said?

Sen. MONIER: Yes its probably a fair statement of part of what I might have said. But I will also say this Senator Bradley if in the basis of all the public relations that has been done on it, the answer is to come back overwhelming the other way then I would also be the first one to go with it.

Sen. BRADLEY: In that regard then shouldn't the questions be framed in a way which are calculated by whatever sampling or polling techniques we now know of to illicit some unbiased questions rather than trying to rig the thing. If you start off by saying I'm going to conduct a poll in order to thwart something immediately I get the feeling that you're looking for honest answers, your looking for a rigged result.

Sen. MONIER: If you heard what I said at the beginning of this, I agree with you I don't like government by referendum. You stated, and I agree with it, that this may be a crucial enough issue where it ought to be done. Obviously I think it ought to be done. There is another reason for that, I think politics in New Hampshire has been based upon anti broad based tax and pro broad based tax for the last 20 years. I've lived in the state for 20 years and I've heard it for 20 years and yet to be truthful with you I'm not really sure that's what the problem of the matter is. And in terms of what you said that you found me quoted for you will find that is a part of the context. I not only want to thwart that because I believe that we do not need it because I know no state ward has solved

its fiscal crisis it's only prolonged it. So therefore that's a personal belief and I'm entitled to an opinion. But the second matter is that in this particular crunch that we are up to this time I think there is another basic governmental issue involved and that is once again and its stated very clearly in the first three questions of the amendment which I have listened to since January as I stated before in my statement that if we do not raise revenues there is going to be a loss of services. I've also listened to parallel to that depending upon what group it happens to be carrying in the bull-horn at that particular time. I have listened to the fact that we need additional state services. Now obviously as I said simplistically to the guy on the street it means we either have more government or less. I recognize that you're going to have more, its going to cost more which means that you must raise more revenue. I'm beginning to wonder through if it's really a true case and I'd like to test that rather than just broad basis. For your information Senator Bradley I think once you resolve that you resolve the other.

Sen. BRADLEY: It seems to me that there is a great difference in quality or character between the questions you ask in the first part of your amendment and don't you agree that questions a, b, and c are the kind of questions historically the legislature has always answered for itself and we are in a better position even now to answer. Whereas your longer list in the second part are of a different nature. They are saying if the legislature decides to go in a particular direction which needs more revenue how do you want to pay for it. Do you want to pay by cash, check, credit card or promissory note whatever we are going to give you the option. Isn't there quite a difference between the two kinds or parts of your bill?

Sen. MONIER: There are two significant different questions posed. This is correct Senator Bradley. And they are not tied together. For example if you reply with one then you should go to the other which is confusing, I went over this with the Secretary of State. The original draft did tie some things together and I dropped it for that reason. They are two separate questions. Each one of which may be tabulated. The analysis of which I think is very enlightening to all of us and thats the reason for them.

Sen. HANCOCK: Today is the 19th of April, assuming that the measure passes the Senate today I assume it will be referred to the finance committee because of the \$25,000 cost

which means there would be another days dealy. Then it has to be transferred to the House where I assume it goes to committee, has a hearing, has to be acted on by the House and then goes to the House appropriations committee. The bill requires that the referendum be held on or before the 22 of May, how do you hope to meet that from the point of view, getting these ballots printed and out to the communities in time, and accompanying that question is, as we have gone on questions, constitutional questions particularly to the electorate in the past we have made every endeavor to bring to it an understanding of what the questions meant and would there be the opportunity to present to the public the reason for these questions in light of some of the feelings that Senators have relative to their obligations for which they were elected?

Sen. MONIER: The May 22 date was selected by myself with the Secretary of State so that we would have this in hand or the results of it by June so that once again we would have no excuse for not knowing at least what we are doing with respect to peoples desire. The second part of it is the Senate got this bill last Tuesday, we are acting on it today, I don't know of any reason under our current rules that finance does not have to hold a hearing on it. They can act expeditiously on it if they so desire each step of the process. Nobody is trying to bypass the process at all. It is the responsibility of those people that are engaged in that particular process and I think they would be held accountable for each of the areas. I think the Senate should be commended that it is here on the floor now ready for discussion and for debate, it will go to Senate finance and once again it would come out. When it gets to the House we have no control over it but they are accountable for their people the same as anyone else. Thats the reason why I'm not concerned. The Secretary of State does assure me that if this bill was passed within eight days up to the 22 that the ballots could be ready, the ballots now, I think it would have to have some time before that myself and I would urge that all of us do these things if we agree with it and do it as expeditiously as possible. We certainly expeditiously put other things through here when we think they are important. The second part of that question is I think the people are well aware of this particular issue, unlike a constitutional amendment which is usually written in such jargon that nobody can understand it, including myself, and unlike the fact they are faced with several of these things, here you're talking about a

single basic issue. Its an issue that everyone in this state is well aware of, has been talking about in a variety of forms and has been bombarded as I've already said ever since December and January and even prior to that in the election year. I don't think they have to be educated. I think that I just want a response from them and I happen to have faith in them that they do know what they are talking about up to a general point.

Sen. PRESTON: Mr. President I certainly do not disagree with the idea of public input in determining the potential sources of state revenue but for a suggestion for an election on a Sunday on or before May 22 is highly impractical to me. I question whether the mechanics are workable. To hold a session election at this time of year on this one issue only in my opinion would result in an extremely low turn out. I might suggest that the news media could better attract response, provide more information, more objectively and perhaps print the projected revenues in each and every item that could be expected from each source of the losses of services the public might face if the government expenditures were cut back. The financial situation has been in the spotlight since last December. Why was this not proposed then that on town meeting day last when a majority of voters did turn out such a referendum could have presented and voted upon. The Secretary of States office informs me that it would require three to four weeks to prepare for such an election. Do the sponsors of this legislation feel comfortable in asking for \$25,000 of state money at this time? This has been stated in committee hearing by the sponsor as an extra experiment but I suggest its an expensive one. Do the sponsors feel it fair to impose the anticipated cost from the towns and cities that this would incur. Concord with its eight wards would be an estimated \$5,600 to \$6,000 dollars. The Manchester figure I have \$18,500, Portsmouth \$12,500, Goffstown \$1800. Newport \$1400 a total estimated to be somewhere between two hundred and three thousand dollars. The town managers I consulted indicated this cost would vary, in the smaller towns from one to three thousand dollars. Senator Rock estimated in Nashua it would cost \$5,000. One town manager remarked that he had not budgeted for this item and they could be in violation of the municipal budget act. Another commented that this was another idea from Concord costing the towns money with no dollars to help them for an unexpected expenditure. If we

want this referendum voted upon at a special election without any prior notice to these towns, we should assume the cost for posing this idea on the communities. I don't think its a case of not giving the people a chance to be heard. This legislation looks good, its provided great fodder for the press and in some cases editorial has edified the sponsors but in essence I think it achieves little. I strongly feel that a designed multiple choice ballots such as this should more clearly spell out income for each category and the services losses that could be expected if the cuts were voted upon. The public deserves the whole story in order to make a judgment. Perhaps with more thought this could be submitted at the 1978 town meetings. I respectfully urge we vote this inexpedient to legislate.

Sen. MONIER: Senator Preston, you and I have talked about this before but I'd like to have you take exception or agree with me on the following things. I did check with the secretary of state on some of these costs and you are correct on your figures as far as I can find. I broke some of these figures down Senator Preston and I'd like to make some comment to you with regard to them. For example in Concord at \$5600 there is thirty thousand total population thats .18¢ per head for this kind of election. In Manchester its 21¢ a head, Laconia its .16¢ and in Portsmouth for some reason or another its 48¢ a head which is much higher. In Goffstown 19¢ a head and so forth. Would you agree with me that this cost is a very small cost inasmuch as if we had a mandatory tax or a voluntary contribution from some other form of raising revenue that most people would spend that many times over in their first week?

Sen. PRESTON: Well I guess the cost as you put it would not be significant Senator, but its enough of an unanticipated cost at a time when the results are not going to be what you expect and I expect within the time requested by this bill its an impossibility.

Sen. ROCK: I wonder if I might inquire from the Senate of the 23 district since he says that the idea is not bad and in general concurs with it but is most concerned about the price of the bill, if this matter should fail today and since its anticipated that we will be back in a special session, I assume, would you be willing to co-sponsor with me legislation that would make this a voting issue at the town meeting in March, do you think that much of it Senator?

Sen. PRESTON: Yes Senator Rock I won't vote for this

unless the State picks up the bill today. If you wanted to present it to the '78 town meeting when a bulk of the people will be going to the polls, I would be happy to see the public have some input on this subject.

Sen. ROCK: Then your answer is yes, you think enough of the legislation to co-sponsor it just so it was held at another time, is that correct?

Sen. PRESTON: Yes if its spelled out very clearly what the results would be, what the anticipated revenues would be from gambling income taxes, sales tax I think that this is designed multiple choice test thats been prepared to get very expected results.

Sen. ROCK: Am I not correct Senator that this bill came before your committee?

Sen. PRESTON: That is correct.

Sen. ROCK: If in fact you thought this bill was contrived to get certain results and you thought the idea was good didn't you have an opportunity to amend it to present the questions in a form that in your mind were more fair?

Sen. PRESTON: Not under the time schedule it faces. Its sponsor was hopeful of suspending the rules last week to get it on the floor but it was courteous enough because of the absense of some Senators not to present this. He's anxious to have it done before June 1, the results back to us so I had suggested that another town meeting or another time at a general election.

Sen. TROWBRIDGE: Mr. President I'm obviously having a little bit of amusement today with **SB 159**. Part of the amusement is the fact that the nine sponsors all voted against Senator Blaisdells tax study last special session which if it had been performed might have provided some of the answers we are talking about today. Its interesting to me that those Senators who were unwilling to discuss anything last June are sitting here now saying we must admit that there is a fiscal crisis, we must admit that if we get the answers back then perhaps the State of New Hampshire and the voter of New Hampshire have now to be told the truth that has been told for a long time mainly that this state is running out of dough. Interesting that this comes about I'm also interested in the fact that the media barrage which Senator Monier refers to the fact that a lot of people in the state are saying the same thing mainly that we do have a real problem, that there is a need for revenue. The fact that a great many people throughout the state

are saying the same thing might just mean that they're right and that they're not just fooling and we are told that we are sitting back not doing anything waiting until July and then at the same time saying we've never had a situation like this before and I agree. We've never had a situation like this before. When I came before this Senate on February 10 I told you we needed to raise fifty one million dollars to keep going. I wasn't fooling and now its been proven out you're going to need some equalivant of fifty one million dollars to keep this state going on the same keel it is without any new programs. Why didn't anybody listen then? Four days later the governor gave his message on the budget in which he specified about 25 different items all of which needed to be passed in order for him to balance the budget, some of which are unconstitutional, many of which are ridiculous and then at this point everybody says well and all during that time, of course, the governor is sitting there saying I will veto any sales income tax or any other particular revenue measure that may come before me other than my 25 point item. So here's the governor making his rigid position. He's yet to meet with the legislative leadership the budget once, not once and Senator Monier is wondering where has the leadership gone. I might just try and spell out that lack of leadership is right down the hall. Not even here in the state and he's planning to go to Panama in May, the time the budget crunch is going to be its highest. I hope he'll solve some problems in Panama but he's leaving a great big hole in the State so who does it come upon? People like John Tucker and myself. People come to me and say whats going to happen? How can anybody say what is going to happen because there is no way to tell. If that house doesn't raise revenue you are going to cut this budget and you're going to cut it out of sight we won't even recognize the state services that you're talking about. I had people coming up to me today saying what happened to the motor vehicle department, why can't I get my license plate? And I said that's what you call cutting state services, so thats what you mean by cutting state services. Well that's what we mean. All of a sudden the employees aren't there. Now on this particular subject with all the ballyhoo that'sbeen going on we now think that we can put a piece of paper before the voter and say here is a list of 29 or 30 items vote on 5 of these. No dollars are attached to any one of them so you wouldn't have any idea whether its two dollars or ten million dollars. When you talk about the first

question which is let's cut costs then you find out that the man on the street may not know the first of the governor's recommendation which is to cut the costs of sending money back to the cities and towns which is a cost of state government that didn't even get 100 votes in the House or the governors primary recommendation. You can see that there is no way that you're going to find this legislature sitting around and saying we are going to cut costs when the items that have come in which your cutting the state employees 10% have already pretty much been rejected by the House and would be by the Senate so that we are putting up a phony issue to people who probably only know that there is a problem here. In addition to that, they don't know that the House and Senate together have filed bills in this session for general fund spending which accounts to ninety six million dollars extra, was entered by every man, woman in this house who have been elected to this legislature at the same time I think yesterdays UnionLeadersays somehow those liberals have infiltrated the legislature. Infiltrated by way of election, the last ballot box and that's the move of the House and Senate at this time. Things need to be done and Senator Monier is saying I recognize publically for the first time that there is a problem; but in answer to a question someone said what would you do?

I don't know, just said it 10 minutes ago. All I know is just about what I hear all around these halls. And so how in the heck can we expect the voter of the State of New Hampshire to know whether Sunday liquor sales or sales tax or anything else is needed or would work. I feel that it would be nice to have some way of finding out. If you went and explained the whole situation, you need fifty one million and you've got this and that and its going to come out somewhere along the line this is what will happen if you cut services, these kinds of things. The University of New Hampshire will lose ten million dollars and this is going to happen here and over there do you want that. By in large they say oh no we don't want that, thats not what we meant. We don't want to have the tuition go up \$300 at the University of New Hampshire but by the same token they'll say I'm interested in the University of New Hampshire take it from somewhere else. That's what they'll all say and that's because they in an unsophisticated way think there is a lot of fat over there somewhere else. I think its our responsibility, I think we've been performing the responsibility. Senator Monier acknowledges

that we have to get out there tell the voter what's going on. For the first time that message is beginning to come across. This is not one of those patch up jobs that you can do with a wing and a promise. Governor Thompson's budget proposal is not seeming to be acceptable in the House are in trouble. If they are in trouble then its up to us to bring back some other things. The House is considering a capital gains tax, the governor immediately says I'll veto it. The House says in substitute for one of your other governors measures that went down the drain that they can up the business profits tax, the governor says I'll veto it. Now what kind of nonsense is going on here and how can any of the voters at this point figure out that kind of interchange and that kind of stalemate that we see in this legislative session. I don't really mind sending it to the voter because I think it will be meaningless. I think Senator Preston is probably put his head on it you take a thing with 20 or 30 items on it and the mix of it will be one gets 6% and another gets 5% and another gets 4% they'll be split all over the place to a point where you'll come back and in June I'll ask Senator Monier what he got out of that poll and he'll say I don't know and we'll be right back where we started. So that you will find that if they want to say yes cut services, that can be done and probably will be done; but the point is the poll isn't going to get us, I think, off the hook and I have a feeling it start out with my speech today that the nine Senators here who are doing this now are feeling the pressure that we somehow have to get off the hook from making their own decision. They should make that decision, they are unwilling to that's their problem, but its not my problem.

Sen. ROCK: You referred to the Blaisdell bill and the fact that I as a person who voted against the Blaisdell bill was in some unique situation now because I was a co-sponsor of this bill. Is it now a fact that as a member of the Blaisdell bill it did not send the vote back to the people of the State of New Hampshire but it established a commission of legislators and appointees who would make those decisions in the very narrow scope rather than going to the entire public. Is that not a fact the Blaisdell bill did that?

Sen. TROWBRIDGE: The Blaisdell bill was saying that in the study that committee should go out to the voters and find their opinion on tax issues such as tax reform and go out in a sensible way whereby those who were listening would have

some sense of the context of what they are doing, not just a piece of paper handed to them on a Sunday.

Sen. LAMONTAGNE: Mr. President, members of the Senate. I rise in support of the majority report of ought to pass. First I'd like to correct the Honorable Senator Trowbridge in reference to the matter of the motor vehicle department. The motor vehicle department, you've probably heard me mention this before, had a problem in my own city when the substation was closed but this was all because of the House Appropriation committee making its report inexpedient to legislate on emergency money that was needed for the motor vehicle department to keep the substations open. I for one was also one who voted against the tax study and one of the reasons why I support the bill and refer the matter to the people as a referendum is because the people that come before the committee are always the same people that always appear for a broad base tax. I think the referendum we had for the sweepstakes worked out very well and people expressed their feelings at home and therefore the wishes of the general court was based upon the referendum issues. Now the general court has been interfering with the liquor commission. The liquor commission has been doing a fine job and has been producing revenue for the State of New Hampshire; but still we have many bills to put in telling the liquor commission how their going to run the business of the liquor. I think that this was wrong. When you have a department that's working well, leave it alone especially when they are producing revenue. But now let me tell you that in the 23 years that I've been here, this is the first time that I have ever seen the headline of a problem thats going to be facing all of us. The speaker of the House of Representatives predicts we are going to have a special session and its going to be on budget issues. Now this is the first time I've ever seen it in 23 years, I've been in the Senate so therefore if we are going into a special session on budget issues and I don't see any need why the governor should be around here and waiting if we're not going to have a budget bill for him to sign by July 1. According to the speaker, I think the speaker must know what he's talking about, when he's predicting as he's predicting in this headline in this newspaper. So this is the reason why I'm supporting the issue to go back to our people and let our people make a decision on what they want. We've reached that point, everything has been different in this ses-

sion and I don't see any harm in asking our people to express their feelings on what they want as far as budgeting for the future.

Sen. BLAISDELL: Senator Lamontagne how many times have I come before your committee to speak to you about broad base taxes?

Sen. LAMONTAGNE: As far as I'm concerned the people that came to support your bill were broad base taxes.

Sen. BLAISDELL: Did I say to you, Senator Lamontagne at that time that if we were to continue state services that we should be looking in another direction and if that direction comes back to me and says no you do not need the broad base taxes in this state that there are other avenues of revenue that we could use or find that I would also be against the broad base tax, did I say that to you Senator Lamontagne?

Sen. LAMONTAGNE: I don't remember whether you did nor not.

Sen. BLAISDELL: Do you remember coming to Senate Finance a couple of weeks ago and asking that we buy the nordic center up there in Berlin?

Sen. LAMONTAGNE: Yes.

Sen. BLAISDELL: Did you also say at that the time you wanted to be sure that it was staffed with people?

Sen. LAMONTAGNE: Yes I did.

Sen. BLAISDELL: When you come back to this referendum here are you going to tell the people of your area that if you don't do some of these things that you cannot have that Nordic Center? Are you going to tell them that Senator?

Sen. LAMONTAGNE: This is not the question. The question right now is a referendum going to our people asking them how they want to take care of these extra services.

Sen. BLAISDELL: When you present this to your people are you going to tell them Senator that you want to sell Cannon Mountain and Sunapee State Park that we need that revenue and thats only a one shot revenue, are you going to tell the people that Senator?

Sen. LAMONTAGNE: I haven't committed myself to that?

Sen. BLAISDELL: Are you also going to tell the people on a one short basis that you're going to sell state surplus property?

Sen. LAMONTAGNE: I have not committed myself to that either.

Sen. BLAISDELL: Are you going to, and you seem to

defend the department of safety, tell them that we are going to have to reposses their cash registers because we can't pay the bill for the next two times?

Sen. LAMONTAGNE: I feel they can find funds to be able to take care of these cash registers that cost \$14,000 a piece.

Sen. BLAISDELL: Are you going to tell your people that the data processing commission is going to have their computer repossessed if we don't raise some revenue? Are you going to tell that to your people?

Sen. LAMONTAGNE: I feel sure that the motor vehicle department and through our taxes we are collecting on highways for fuel that the matter could be taken care of.

Sen. BLAISDELL: Are you going to tell your people in the north country that we gave them 15 troopers and we took 15 cars away from them so they are going to have to walk?

Sen. LAMONTAGNE: Well, I don't know maybe that's not a bad idea.

Sen. BLAISDELL: Are you going to tell the people in the north country that you don't have the protection that everyone talks about from the state police in this state in your county as well as in mine that we have one trooper in Cheshire county at night protecting Cheshire county? Are you going to tell them that?

Sen. LAMONTAGNE: No comments.

Sen. BERGERON: Senator I'm just curious I've listened to you expound on what you believe are problems and I would just like to know if you could enlighten me personally as to the solution of this?

Sen. BLAISDELL: I've always advocated a graduated income tax in the State of New Hampshire and I'll stand behind that. That's my answer to you sir.

Sen. HEALY: I am the only one from Manchester that did not sign this bill so I have a feeling that this will probably pass, I don't know for sure; but I want to point out one thing, I will never vote for an income tax or a sales tax. I ran on a program that said no sales or income tax. I am going to stand by that to the finish. No one can count on me for a sales or income tax and had better not even ask me that question. Number two, I think there is a little bit of an inference here that's trying to put the sales taxes and income taxes on. I want to say this, that I think that we can save money and still put this to the public and perhaps present it better than having the people out spending a lot of money for another election.

This is going to cost the state a lot of money. What are we doing going to spend money trying to make money is that the question? I would like to ask a question of Senator Rock. Senator Rock I consider Senator Rock a very knowledgeable man in the news media. Couldn't this Senator Rock be presented even if we had to advertise on two or three issues to give it to the people of the State of New Hampshire so they could sit back in their own home and transmit the answers to the State Senate or to whatever to the Secretary of State or to the cities and towns where the response should be made, that these people that have time to sit back and report on this as a poll and we would still get the same results then trying to carry people to the polls on a Sunday or Saturday afternoon.

Sen. ROCK: I think its a good question. I'll try to answer it. I have to answer it in several different ways. If your question should be appropriate money to buy media space in all of the publications in the state to ask these questions I think, you'd be coming to the figure your talking about now for the \$25,000 if you had to buy every publication a large enough space to do this thing. Maybe you'd have to substantiate that my answer a little later. The second answer would be if you say lets give this question under the constraints of freedom of the press which I subscribed to and always have and always will, first amendment rights, and let the newspapers handle the question and put it before their readers and you think as some Senators said that this is slanted you'd never recognize it. The way some newspaper would put it and thats both sides of the issue. The pros and the cons and cons there would be. I think Senator that I would have to say verifying the results, having people sign the ballot, sending it through the mail who would calculate, who would collect, what to be done would be almost an insurmountable task although in New Hampshire nothing is surmountable. I think what you're asking in this bill is to do it in the secrecy of a ballot box because I'm sure if this question came on the pages of the Concord Monitor to the house of some good upstanding citizen in New Hampshire tonight and he was going to see whether he'd vote for jai alai or slot machines or income tax or whatever it might be, he might vote a little differently with his wife looking over his shoulder than he'd vote in the ballot box. I don't know, maybe not. I don't think that kind of a poll would have the meaningful answers if it were used just in the press that it would have in the ballot box. I think you should also realize Senator that after its all

said and done it's merely a referendum to give you a sense of the voters and its not binding if it wasn't workable.

Sen. HEALY: Senator to point out something about polls, we have many polls as you know over the period of years as a newspaper we present many polls. These polls are very diversified and at the election polls there are big turnouts. Now this last poll you mentioned, I think your inference was there wasn't a vote on that. Am I correct?

Sen. BERGERON: That is correct.

Sen. HEALY: Do you think that if something like this was presented in the poll it would be tantamount to a poll like on Casino would get the same results as a casino poll?

Sen. BERGERON: I think probably you could expect about the same response.

Sen. HEALY: What would you think about a proponent who is bringing in a casino slot machine bill and then vote on it himself?

Sen. BERGERON: Maybe he had a change of heart. That's his prerogative, I don't know Senator.

Sen. HEALY: I might say that was in my case and I could have presented a great many poll results which I did not. Let the people decide themselves.

Sen. BLAISDELL: Senator Bergeron, Senator Healy mentioned that you brought me out in the open in my graduate income tax thing and I can understand that Senator Healy because where you come from my name is not printed very well. They always say I come from that anti-God, anti-US area; but Senator Bergeron you asked me my solution, I want to ask you yours, what would you do?

Sen. BERGERON: I happen to disagree with you. I am also going to take the position that quite truthfully I have a distrust of all figures that I have heard today from all sides. I just cannot correlate any of them so that I'm completely satisfied in my own mind. I don't think there is any doubt that we are going to have to do some realigning. I have no qualms and I don't agree with Senator Trowbridge because I happen to believe that my constituency should have an input into my actions that I'm abrogating my responsibility, that's hog-wash you know it and I know it. I represent them. I can come up here day after day and sit and vote my own convictions, that's not what I was elected to do. I was elected to represent them. I want their input. If my people tell me they don't want a sales tax that they want to go against my Sunday opening of liquor

stores bill, fine then I'll have to change my mind on that bill. I'll do what they tell me to do; but I'm not willing right now to throw the sponge in and say I'm coming out for a graduated income tax or sales tax, you name it. I'm just not ready to do that.

Sen. BLAISDELL: Do you realize Senator Bergeron that I said this the day after Governor Thomson got elected again, right? So I'm not just saying it today.

Sen. BERGERON: Senator, I believe I've read in a newspaper somewhere that you announced for governor on that platform.

Sen. BLAISDELL: That's right, the next day.

Sen. ROCK: Senator you heard as I did that Senator Trowbridge answered Senator Bradley's question as to the amounts of revenue that would be raised by various forms that the so-called Sackett bill a .5% income tax would raise between seventy-five and eighty million dollars, is that correct?

Sen. BLAISDELL: I think that's what the gist of HB 512 is, I think that's what it says.

Sen. ROCK: Today Senator you had reaffirmed your previous gubernatorial aspiration on the stand of a graduated income tax, is that correct?

Sen. BLAISDELL: That's right Senator.

Sen. ROCK: Do I understand the constitution of this state correctly Senator that unless we amend and change the constitution we cannot have a graduated income tax?

Sen. BLAISDELL: You are absolutely right Senator.

Sen. ROCK: Senator, what do you think the results would be if you went to your constituents one by one and asked them, would you vote to change the constitution to give yourself graduated income tax? How do you think they'd respond to that?

Sen. BLAISDELL: Senator, if I gave all my constituents all the reasons for voting for that tax, the loss of services, what will happen at the Laconia State School and the hospital, I can go on from here about protection to my county and I think the responsible people of my area, yes, would buy that particular thing if some of the money was sent back to the cities and towns to relieve the burdening property tax on our senior citizens, retired people and on people like myself who are small businessmen.

Sen. ROCK: In giving them that wonderful opportunity to

answer this question would you not Senator Blaisdell have to go back to the people with a referendum question and ask them would you like to do this?

Sen. BLAISDELL: Yes you would senator.

Sen. ROCK: Isn't that Senator what we are doing here saying not giving them the opportunity to speak out, to give us an answer?

Sen. BLAISDELL: Not really. You're not changing the constitution with that piece of paper right in front of you and you're not giving the people of our state the alternative either. What's going to happen if you don't do such a thing. That's what you're not doing and that's why I can't support it. If you tell the people what they are going to lose and what kind of services they are not going to have and be honest about it then yes, then I'd vote for it.

Sen. SANBORN: Mr. President I'll try to be brief about this, but like Senator Healy I have run in my district into opposition to sales and income taxes and this last time I did fairly well, much better than I did the time before even though I had the influence and prestige of the United States Senators office oppose to me; but I did fairly well. However, I do want to bring to the Senate's attention a little further on the statements that Senator Lamontagne has already brought to our attention relative to the headlines in this afternoon paper. I can't help but wonder about the leadership of our House when I already read here in the paper what the leadership says that he feels the proponents of a sales and income tax are using terrible strategy by pushing for the legislation now. In other words he understands by pushing for that legislation now they are losing their battle. He says that the opponents of a sales or income tax for the state are mixed up because they are going to go on their way until the state is bankrupt. Now if that isn't the leadership of our House saying the only way we are going to be out of this mess is because of a sales or income tax, I don't know what else he is saying. These are his own quotes because he also says, in their hearts, again talking about the people that oppose a sales or income tax, they know they are wrong, the anti-taxers. He says further that the House reluctantly will pass the budget bill, and get this, that the Senate will increase it, increase the spending level. So that's what the leadership of the House thinks of the Senate. He says we will end up in the 30th of June with a continuing resolution with adjustments for inflation and this is why we

are going to be called back into a special session later on by Speaker Roberts, I guess to settle the budget sometime this fall or next winter and I just want to remind the people in the Senate the last time Speaker Roberts got us into a special session called back for one day by the governor to take care of a problem the Senate was responsible, took care of the problem and before we got through Speaker Roberts kept us here for pretty near six more months. Yes, I support this bill and basically after reading the headlines and reading through part of this, remarks of the leadership of the House, yes I'll vote for this bill in a minute.

Sen. HANCOCK: Mr. President, members of the Senate, I really believe that the people of the 15th district elected me and elected 16 members of the House of Representatives to make decisions on what we need by way of state services and to figure out how we are going to pay for it. I think that the amount of money that would be required to hold this election, this referendum, is exorbitant. I think that the logistics are absolutely impossible and I think that the whole thing is irrational and irresponsible.

Sen. MONIER: Senator, did you just hear a few minutes ago Senator Trowbridge indicate that the people really do not recognize or know what kind of services they get or what they have or what they would lose? How then can you state that you feel that you can represent them when they themselves do not recognize what services they would lose or gain by this kind of a tax?

Sen. HANCOCK: Senator Monier I think, as I said earlier, that the people of my district put enough confidence in my judgment on what we need by way of state services, they know they can reach me at any time for any thoughts that they may have, any suggestions and I think that they have confidence that I can determine along with the other members of the House of Representatives at least for the city of Concord and I hope for the State what we need by way of state support, and state services and how we can figure to pay for them.

Sen. MONIER: Then if you believe this then you certainly wouldn't have any objections to them telling you again that this would be the way that they would like it then would you?

Sen. HANCOCK: I think its entirely unnecessary.

Sen. JACOBSON: First of all I voted for Senator Blaisdell's tax study. Secondly, I believe I've been elected as representa-

tive to make decisions and not necessarily to always interview the public with respect to decisions; because the public always has the right to remove me from office when my term is over. I also have some problems with the list because it has a mix of what I call capital items. For instance, general revenue measures intermix with special revenue measures because if you support a capital item as has been pointed out that only goes one time and you will have to find another capital item to equal or find another source of revenue. I'm sure that it sounds attractive to want to sell Mr. Sunapee and Cannon Mt. for ten million dollars; but that will only solve the problem for one time and I want to be on public record that I'm against that regardless of what the vote is going to be because I don't believe that's in the public interest. However, I'm impressed by a fact that occurred November 2 when there was relatively clear choice between the candidate of the democrat party which had been an advocate of graduated income tax in the session that he was here in the Senate vrs. Mr. Thomson the republican party candidate who said that he would veto any sales tax or any income tax or any other tax except these limited revenue measures and the vote was in excess of fifty-three thousand votes so that was a pretty loud voice and I think the matter was pretty clearly stated and I'm impressed by the discriminating way in which voters make their choices in which they will know the difference between one item and other item. I don't think we give the people credit enough because I find that every citizen is relatively intelligent. I'm not really that concerned about sending out this proposal. I think it would be interesting to see how the people would respond and I have a little special interest in it. I'd like to see how they would respond on a Sunday because in Europe for example, Sweden, they vote their parliamentary elections on Sunday and they get much better turnouts than we do. I had no idea it might provide an interesting test as to the responsiveness of people to Sunday voting so that while the proposal has certain kinds of defects I don't think the defects are of such a nature that they are fatal. I'm going to support the proposal simply on that basis, lets see what happens. I recognize its going to cost some money but we are spending a lot of money right now and we haven't made a great deal of progress in this regular session of the legislature. We spent nearly nine hundred thousand to a million dollars already and we are behind, so if we do spend a little more money we might find

an interesting result. I don't think that any member of the Senate or the House of Representatives should be guided by whatever the decision may be because after all we do have categories of knowledge, at least we should have categories of knowledge that are greater than the average citizen simply because we are here. But on the other hand, I think we ought to let the people, if they'd like to, speak to it. Furthermore, I'm always intrigued by the notion that constantly come to me that yes I do not want a cut in public services, but no I don't want an increase in taxes. Now I think that the public, as well as this legislature, ought to cut fish or cut bait and so let's get everybody on the ball and see how they feel about it.

Sen. PRESTON: Senator Jacobson you indicate you would be interested in the results of such an election. Would you be interested in the state paying for the cost of such an election as it would cost the communities.

Sen. JACOBSON: I don't have any problems with the state although it has never paid for elections in previous years that I know of. Each town and each municipality must bear the cost of elections.

Sen. PRESTON: Would you object to paying the cost of this special election as legislated by members of this body? Would you object to the state bearing the burden of this election at this time?

Sen. JACOBSON: I think that is a minor question in the long run but if the legislature, the general court, would wish to go along with that I don't have any problem either way.

Sen. ROCK: Senator I was delighted to hear your decision on this bill. I just want to clarify one point for the public here and the press and I trust you were using the editorial when you said we have spent nearly a million dollars. Is it not true Senator that the House has spent three quarters of a million dollars and the Senate has spent considerably less in accomplishing much more?

Sen. JACOBSON: Well, I used the "we" of the general court since we are all part of the argument but I would agree to what you have said.

Sen. ROCK: Then you would also agree Senator that we may be co-equal bodies but we have not been co-equal in extravagant spending.

Sen. JACOBSON: Hopefully not. As I have told you many times Senator, I like to be flexible and frugal.

Sen. FOLEY: Senator Jacobson I was interested to hear

about the last election in November. Was it not true that at the time of that election in November, it was a land slide for the governor. Wasn't it said at that time that there was a surplus of twenty million dollars and that there would be no need for any additional revenue of any kind for the next two years and maybe this is why fifty-three thousand more people voted for him than for Senator Spanos?

Sen. JACOBSON: I have no way of judging on how the people voted. The issue was relatively clear whether or not there should be new additional revenue measures with regards to either sales tax or income tax. The democrat candidate was clearly on one side and the republican candidate was clearly on the other side.

Sen. FOLEY: Isn't it so that the republican candidate said that there would be no additional revenue of any kind merely because there was a twenty million dollar surplus and ran on that platform?

Sen. JACOBSON: Well you'd have to ask him that question.

Sen. TROWBRIDGE: Senator Jacobson, being the fine legislator that you are and hearing your comments and also as being a professor would you not think that some improvement could be made on the question asked rather than this is perhaps some different language might be proposed?

Sen. JACOBSON: Yes I think the questions could be better framed. I understand they were taken from Susan McLane's list of twenty. I think for example the potential revenue raising factor ought to be clear because it would take about 16 of one to be equal to one of the other.

Sen. BRADLEY: Mr. President, I rise briefly to say that I intend to vote in favor of the bill although I have a number of problems with it. I do so in the hope that the question can perhaps be improved and simplified but I will vote for it to keep it alive for that purpose. In voting for this I would hope that maybe it would do a little bit to reverse a notion here which I think is a very bad one and offensive to our process and that is a statement made by Senator Lamontagne and I believe also made by Senator Sanborn last term that they opposed a bill because of who the sponsors were or they opposed a bill because of who was favoring the bill. It seems to me we all ought to try to make up our minds on a bill based on what is in the bill and not based on who has spoken in favor or who is

avored in the press or who the sponsors are. The fact that the sponsors on this bill may not vote with me is of no concern to me and I don't think it should be to this Senate and I'm voting for it because I am happy to have this kind of issue put to the voters and I agree with Senator Monier on this point that I think its an extraordinary enough thing that we take this step at this time. I'm very hopeful though that the questions as I say are simplified and this list is reduced to something which makes sense and the public can easily handle.

Sen. LAMONTAGNE: Senator you have just said that I opposed legislation because of who the sponsor is? Is that right?

Sen. BRADLEY: I understood your statement earlier is that you opposed the tax study bill, which I was also a co-sponsor of last time, because of who was supporting it. I believe that was your statement.

Sen. LAMONTAGNE: Senator, have you any evidence to prove to this Senate that I have said such a thing or I have ever opposed any bill because of sponsorship?

Sen. BRADLEY: I believe I heard you say a few moments ago that that was the reason why you opposed that measure. Now if you did not say that, I will apologize and withdraw my remarks.

Sen. LAMONTAGNE: I did not say that. Now if you want me to repeat it, I'll repeat what I said.

Sen. BRADLEY: I would certainly wish you would clarify that statement.

Sen. LAMONTAGNE: I said that the same people that appeared before the hearing are the same people who are broad based tax supporters. Didn't say anything about the sponsors.

Sen. POULSEN: Mr. President, I hadn't intended to speak on this issue. Apparently the broad base aspect has come into it rather meaningfully or not as a partisn type thing and I am definitely not a broad baser, but I'm going to vote against this bill simply because I don't like the type of referendum we are asking for.

Sen. DOWNING: Mr. President I rise in support of the pending motion and I have some reluctance, its a little bit confusing to me the more we talk about it the more confusing it gets but also I feel the more the public gets involved with government the better off we are. Now its a physical impossibility for them to participate in everything and thats why they

send us here. But in getting them to participate at any one time to greater depth on any one issue or two or three issues, I don't think that is unwise. I think it is a very prudent thing and I'm concerned that the people did in fact elect our present governor by the majority that they did during the last election and I think that this may be a poll of just seeing whether they still support that attitude that prevailed at that time or not. I think that alot of things have come to light since the last election. I think the people out there are a little more understanding of whats going on. I think the fact of putting this poll out to them even though I'd like to rephrase some of the questions, I think its a good indication of just how well they do understand this situation and I don't feel to take this advice under consideration and then take the action we need to be sidestepping our responsibility in any way, shape, or manner. I do have one reservation and that is posing this cost on the community. I don't think the local community should be paying for it. The state wants it, the state ought to pay for it. A few more thousand or a hundred thousand dollars to the state or the situation we are in now is nothing from where I sit. If we are going to find the answers, and we are going to find the money for that a lot easier than the communities are going to find it that have already set their budgets and town meeting is over with. So I urge you to support the bill.

Sen. SMITH: Mr. President I rise in opposition to the pending motion. One time I thought maybe I'd vote for this resolution to have a referendum. I've looked at it. I've thought about it and its foolishness. We talked about circuses earlier in the session today. Now I can even buy a circus for what this is going to cost the State. This is going to probably cost somewhere between two and three hundred thousand dollars before we are all through with it if it passes. If the towns have to pay then we are putting the burden on the towns. If the state has to pay then we are going to be spending somewhere between two and three thousand dollars. The towns can't pay because they passed their budgets already. Unless they have slush funds somewhere. Senator Jacobson referred to an interesting test. I can't consider this an interesting test. I call it an expensive test and one which is going to be a waste of money and of time. Now when you ask 20 questions the answers are going to come back as so much mush that its just a ridiculous situation. It doesn't say in the amendment that we are going to be voting on whether you are

voting for one or twenty items of revenue raising. On item #12 Capital Gains Tax no point on voting on that because the governor says he's going to veto. I just think that I have received enough mail to know how the people are feeling and I would go along with what Senator Foley had to say that the people are beginning to think a little more and they are beginning to change their minds because on election day the facts may not have all been in. Not only have I had mail on various revenue raising measures and, I'll be frank to admit it as Senator Blaisdell did, that someday, sometime we are going to have to face the situation of that evil tax. Either an income or sales tax because we can no longer continue jacking this one and jacking that one up and still remain competitive with the other states in the area. We can't juggle this around forever and ever. Also my home town, town meeting, has an article in the warrant to instruct the legislators to be in favor of casino gambling. Now that article was amended and slot machines were added to it and it was unanimously defeated so I've had one poll in my district and there were about three to four hundred people at the town meeting. I would agree with Senator Jacobson that there are discrepancies here on the questions. They talk about the sale of surplus property. Now what is the sale of surplus property. Is that the state house? Now I understand that there are going to be dollars added in another amendment of how much it will raise if you do this. What does that mean to a person when they don't know exactly how much we are in the hole. So how many are you going to vote for? In conclusion Mr. President, the last item on the list is the sale of Cannon Mt. and Sunapee State Park, now I agree with those who say that those should not be sold. They are income producers and just to conclude Mr. President this reminds me of the farmer who sold his herd of cattle to buy a manure spreader. Now if you people know what a manure spreader is for, isn't much good after you have sold the cattle.

Motion of "ought to pass with amendment."

Sen. Provost moved the previous question.

Adopted.

Amendment to SB 159

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

to implement a special state referendum with respect to state revenue sources and government costs and making an appropriation therefor.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Special Referendum. A special state referendum to determine the sense of the voters, with respect to reducing state government costs or increasing state government revenue sources shall be held no later than May 22, 1977 on a day set by the governor and council after consulting with the secretary of state, provided that such referendum shall be held on a Saturday or a Sunday.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Questions Submitted. The following questions shall be placed on the ballot as shown:

Vote For Not More Than One

- A. "State government costs should be reduced even if it means cutting state services?" ☐
- B. "State revenues should be increased if necessary, to maintain current levels of state services?" ☐
- C. "State revenues should be increased in order to provide additional state services?" ☐

**“If The State Were To Increase Its Revenues Which Methods
Do You Favor?”**

Vote For Not More Than Five

- | | |
|--|--------------------------|
| 1. Sales Tax | <input type="checkbox"/> |
| 2. Casino Gambling | <input type="checkbox"/> |
| 3. Income Tax | <input type="checkbox"/> |
| 4. Slot Machines | <input type="checkbox"/> |
| 5. Increase Business Profits Tax | <input type="checkbox"/> |
| 6. Sports Betting Cards | <input type="checkbox"/> |
| 7. Increase Meals and Rooms Tax | <input type="checkbox"/> |
| 8. Jai Alai | <input type="checkbox"/> |
| 9. Increase Beer Tax | <input type="checkbox"/> |
| 10. Sale of Wine in Grocery Stores | <input type="checkbox"/> |
| 11. Capital Gains Tax | <input type="checkbox"/> |
| 12. Sunday Liquor Sales | <input type="checkbox"/> |
| 13. Increase Interest and Dividends Tax | <input type="checkbox"/> |
| 14. Sale of Surplus State Property | <input type="checkbox"/> |
| 15. Real Estate Transfer Tax | <input type="checkbox"/> |
| 16. Horse Race Multiple Wagering | <input type="checkbox"/> |
| 17. Blue Cross/Blue Shield Premium Tax | <input type="checkbox"/> |
| 18. Increase Various Fees and Licenses | <input type="checkbox"/> |
| 19. Increase Bank Franchise Tax | <input type="checkbox"/> |
| 20. Sale of Cannon Mountain and Sunapee State Park | <input type="checkbox"/> |

Senator Bossie requested a roll call. Seconded by Sen. Blaisdell.

The following senators voted yea: Lamontagne, Gardner, Bradley, Bergeron, Jacobson, Monier, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown, Bossie, Fennelly, Downing.

The following senators voted nay: Poulsen, Smith, Blaisdell, Trowbridge, Hancock, Preston, and Foley.

16 yeas 7 nays

Amendment adopted.

Senator Trowbridge moved an amendment to **SB 159**.

Sen. TROWBRIDGE: Mr. President, I think this amendment has really been eluded to as we went through the debate. Mainly, that many people had some questions about the ability of a voter seeing the amendment to have any idea of the relative value of the items being proposed and that is possible. Furthermore, I don't think anybody would be asking this question of the voter if it were not necessary to raise state revenue otherwise the whole thing goes out the window so that the question now submitted is as follows: Since it has become necessary to raise state revenue which methods do you favor? Vote for not more than five, and then you can read as well as I it goes down the list where a known figure has been agreed upon by people in the revenue raising area the least has been put beside one of the bills mainly like the income tax of seventy five million a year this kind of thing I read out earlier. We took out the 20th item the sale of Cannon and Franconia because I can't frankly see that ranks anywhere in the easy item, I think it offended a great many of us as being on the list because its not been a serious proposal that has been put in as a bill here this session so its been mentioned in the press because Governor Thomson said lets sell Franconia; but has not been introduced as a bill. I think its pretty straight forward. There are the figures. They are on a yearly basis. We did not do a biannium basis because no one knows what a biannium is so I thought it was simpler to say per year, this is what they raise and I for one would think the Senator who now sees the vote as 16-8 that if this bill is going to go through I think you owe it to the voter to put on the amount of money each item would raise but I don't really see that that should be opposed.

Sen. SANBORN: Senator, I want you to understand I don't oppose the idea of showing the figures here but don't you think that on item 14 Sale of Surplus State Property that there should be a little parentheses one year only because you can only sell the property once?

Sen. TROWBRIDGE: Well I'd be happy if this thing came along with other suggestions by the Senate we can take care of that in Senate Finance. If it would be the will of the Senate though that if you want to make some suggestions this raises the issue as whether we should have more descriptive material on the ballot then we have now including the numbers as Senator Sanborn said maybe saying, there are extra houses, as I understand, up at the Laconia State School

and another one that Dr. Gary Miller is living in. Obviously that's not a big element in our calculation.

Sen. HEALY: Senator, I'm looking this over here and I see, of course these are all estimates, am I correct?

Sen. TROWBRIDGE: Right.

Sen. HEALY: I noticed that when it comes to a sales tax we could raise quite a few dollars. Come to casino we don't know, but we are not sure either of a sales tax. I could give you an estimated figure on that.

Sen. TROWBRIDGE: The sales tax is not very difficult to project. The gross national product of the state and the amount of goods and materials sold here are within the boundaries very well known, so that one percent no exemption is not hard to estimate.

Sen. HEALY: I'm going to number four now—slot machines an amount unknown. Number six—betting cards, amount unknown, jai alai, the amount unknown. To me this conveys an inference to the people that would be voting to say to the effect well, this sales tax is going to raise a lot of money. Casino gambling that might not raise so much. If you ask me, I think casino gambling is going to raise the money in the easiest form and the most acceptable form to the people in the State of New Hampshire. What do you think about that?

Sen. TROWBRIDGE: Well, I'll tell you what I think. I'm sort of glad you asked. On the slot machine side it's been pretty well determined that you're going to have to put eighteen million dollars to hire at \$1800 a year ten thousand machines in order to get any revenue. Who is going to put up the eighteen million dollars a year? It has to be the state. Secondly, on casino gambling the figures there are that if it's going to be state run there again you have to go into the business. No one has given a firm figure on casino gambling.

Sen. HEALY: I noticed here now instead of 20 commandments we only have 19. On casino gambling you mentioned it was going to cost the state a tremendous amount of money in the slot machines or casino gambling, under the bill that Senator Healy has it's not going to cost the state anything.

Sen. TROWBRIDGE: Give me a revenue estimate on casino gambling.

Sen. HEALY: I'd say on the casino bill you'd raise in the first year twenty-five to thirty-five million dollars and after that I don't know where it's going to go. It may go like to dog tracks and the horse tracks and they go high, wide and fancy.

I can remember once when Rockingham first came into being, they never dreamed that it would ever hit a million dollars and there were days down there when Rockingham track hit over two million dollars on one particular day.

Sen. TROWBRIDGE: Its interesting to note Senator Healy that in the revenue estimates that New Jersey is making, New Jersey is Atlantic City which has as you know, all the hotels in one place, everything is ready to go, the valley corporation is buying up the place. Their revenue estimates for the State of New Jersey in Atlantic City which has a catchment area of all New York, Philadelphia, Baltimore, that their revenue estimate is seventeen million dollars a year. Did you know that?

Sen. HEALY: Yes. I read several different stories on it and several different estimates and the casino bill in Atlantic City would not actually be the same as a casino bill or a slot machine bill here in New Hampshire. The bill that is going to come through is going to be a bill that's not going to cost the State of New Hampshire a penny except to get the thing started and that first amount of money would be returned to the State of New Hampshire. The rest of it henceforth would be operated by the people, of the people and for the people who wanted to participate. So I would say this would be something that should also be considered as far as money is concerned.

Sen. TROWBRIDGE: I think so too Senator Healy. But one thing you have to understand though is, that the only bill on gambling that would go through without a statewide referendum would take place next year. No casino would be built in that year and so for the next two years its very difficult for anyone to estimate any revenue from gambling in that it will take that long to get it up.

Sen. HEALY: I say that if the slot machine phase of the casino bill comes through it would start raising money in 1977.

Sen. TROWBRIDGE: Who is going to put up the eighteen million dollars?

Sen. HEALY: As I said before, the state is not going to have it. This would be done by private concerns, private clubs and soforth.

Sen. TROWBRIDGE: That's not what the bills says.

Sen. HEALY: My bill says so, its going to say so.

Sen. BERGERON: Senator, I'm perplexed. Could you, number one, help me on the road to light by telling me what the purpose of the amendment is?

Sen. TROWBRIDGE: Yes. I'm saying that you take the one here and look at that and say which would increase revenues which would you favor, wouldn't you as an intelligent person want to know which one raised more money. Wouldn't you want to know if it raised a dollar or a million dollars? That is the purpose of the amendment to try and point out as best I can what the revenue estimates are and where I put unknown, I put unknown because there isn't anybody who can tell me at this point what those other ones are going to make. Not one has made a solid figure. If they would, I'd take it.

Sen. BERGERON: Senator, if that were the only purpose of the amendment I would support it whole-heartedly.

Sen. TROWBRIDGE: That is the only purpose.

Sen. BERGERON: However, as I see it what you have done here again I'm questioning you for my own enlightenment. I think what you've done is, you've taken the question, you've decided the issue, you've given the people no choice on the three questions. You've now told them, hey Charlie, there is no question. It's now necessary what do you want, select five. You haven't given them the option of selecting one of the three measures that we had.

Sen. TROWBRIDGE: I understand but those three measures were not in your original bill either. I'm interested to know that the sponsors, when they filed the bill, did not have any three questions at the top. They started right out saying if revenue is needed here are the ones. That was the original bill.

Sen. BERGERON: Would you agree with me then Senator, that on the original bill it said if additional becomes necessary your amendment has become necessary and we haven't convinced anyone from the time the original bill was introduced until your amendment comes through. I don't see where anything is changed.

Sen. TROWBRIDGE: Think of the logic here. Why in the dickens would we go out and spend two to three hundred thousand dollars to poll the people of the State of New Hampshire on revenue questions if we didn't think there was a need for revenue. There is no logic in that position Senator Bergeron. None whatsoever. I can see the logic of Senator Monier things saying I've come to the conclusion that we got a revenue problem. There is no question we have a revenue problem and to go out there and say we don't think we have a revenue problem but which ones would you like is so indirect that it's jerky. So I'm saying to you if you're going to do this thing here

is illogical question since we need more revenue here are the items that have been filed by the legislature and here are the amounts of monies attached thereto. Now you can vote against this amendment but I don't care I'm not going to be caught in the trap of having this thing go through with that kind of logic. Its absolutely idiotic.

Sen. BERGERON: Senator, if the people had their choice of the three top questions isn't it just possible that perhaps you wouldn't need these additional 19 or 20 items. Isn't it just possible that you would not need additional revenues?

Sen. TROWBRIDGE: Now you ask a person a question saying do you think you need more revenue. Is that leadership? How would I know if you need more revenue? I'm saying you've got to take some position and there would be this whole poll unless most of you recognize that the revenue question is coming down the pipe and I recognize that and I don't really mind that so long as you say we've got to take some responsibility in this process to say to the citizen of New Hampshire, we believe that more revenues are necessary. Any one rational looking at the state at the present time is saying that you're going to need more revenue. I don't know of anybody who is really thinking about it and saying that. Even the governor is saying he needs twenty-six million dollars more revenue. Even the governor has a twenty-six million dollar item so that its not as if its a big issue that you need more revenue. I think you've got to stand up and be counted on enough to say, since we need more revenue which do you like. I don't think thats asking too much on the part of the Senate.

Sen. HANCOCK: Senator Trowbridge I haven't heard any complaint about the figures which you have. Do these represent agreement between the Senate Finance committee, the Ways and Means committee and the Appropriations committee?

Sen. TROWBRIDGE: Yes. Actually when you take, like the business profits tax increase, that is just an extrapolation. There really isn't anything needed there. The sale of wine in grocery stores are the governors own figures we are using. Increase in room and meals tax is an absolute extrapolation, there is no disagreement. Sunday liquor sales is the governors thing that was on this list of items. Most of these are the governors figures. So I don't really think thats a problem.

Sen. HANCOCK: Then this is a consensus of the administration and the legislature committee?

Sen. TROWBRIDGE: Yes.

Sen. SMITH: Would you believe me Senator if I told you that I thought this amendment was an improvement and that I am still not going to vote for it?

Sen. TROWBRIDGE: I would believe it. I'd believe anything you said Senator.

Sen. SMITH: Secondly, if as a voter, this ballot were presented to me and I walked into a voting booth and I looked at it and said those are nice interesting numbers; but really what does the state need for revenue? How am I going to judge that as an individual who really doesn't know. We hear figures from twenty-six million to fifty million that are needed. We have some rough idea but how do I know which ones of these I'm going to vote for when I really don't know what the needs are.

Sen. TROWBRIDGE: My original talk today went right to that question. Namely, they don't know and its going to be very difficult but I still say this is an improvement over the other thing. We've had our vote. I'm not one who stands in the way of this Senate. If the Senate wants to go ahead and send this to the House they can do so. But at least I think they ought to be able to take the stand that will give them some idea because we may just possibly have some of the barrage that Senator Monier referred to that there is a need for considerable revenue. Probably what you will have to do is to have a good deal of information going out that this is in the twenty five to thirty million dollar range and that is, I suppose, the job of both sides. I think that it is interesting also, since the governor said he needed twenty six in extra revenue.

Sen. SMITH: You have on the casino gambling, unknown, and I would go along with you and say that even if we did adopt casino gambling that no revenues would be forth coming probably in the biennium but if one of our down river leader newspapers said that casino gambling was going to be the revenue being thirty million dollars don't you think a lot of people might take this as gospel?

Sen. TROWBRIDGE: I'm not so worried about that frankly. I think the issue on casino gambling is going on the basis other than the revenue raising aspect of it. I think its failure to gain support in the House is not because of revenue so much but because of other items so that I wouldn't really fear

that. We could put in unknown or substantial or any old thing. If I had a figure that I could stand up and defend, find and dandy. I just don't have them. And if it were substantial I would put it in.

Sen. LAMONTAGNE: Senator assuming that in the five questions that you propose in your amendment, that you adopted 12 which is \$858,000 and then you had 15 that would be \$400,000 then you had 16 \$950,000 and 18 \$800,000 do you feel this would be a sufficient amount to take care of the necessary needs of the deficit that you're speaking about?

Sen. TROWBRIDGE: Obviously not. The problem that you've got now is the fact that even if all of these things passed, all of the governors proposals pass, you're still cutting twenty-five million dollars out of the operation costs that are needed to run this state. So even if you raised this whole twenty-six million dollar package you still have got another twenty-five million to go. You've got fifty-one million dollars we are dealing with and whether you like it or not he dealt with them. He cut twenty-five million out of the operating budget and then raised up another twenty-six million. But those things are not all flying by any means, so that without saying what you're facing its very difficult for a person to know how to vote. Now those fifty-one million are over two years so twenty-five million dollars a year.

Sen. LAMONTAGNE: The proposal of this amendment is it for one year or two years?

Sen. TROWBRIDGE: One year, because most people will think on a yearly basis. We can transcribe from year to bien-nium they don't have to do that. I think most people think per year easier than biennium and thats why I put it on the yearly basis.

Sen. LAMONTAGNE: So in other words if your question is adopted you proposed not more than five. Then its not going to raise enough revenue to take care of what your going to be needing in one year.

Sen. TROWBRIDGE: You are a sponsor of the bill Senator Lamontagne and the original sponsor said not more than five. That was your provision, not mine.

Sen. FOLEY: Is it true that Governor Thomson has not ever called you in to discuss the fiscal problem that we have?

Sen. JACOBSON: That is true in the formal sense of the word. There has been no official meeting that I know of.

Sen. FOLEY: Has anyone else been called in with you or just you.

Sen. JACOBSON: This has only been discussed with myself. Senator Trowbridge and I, Senator Trowbridge proposed and I supported that the legislative facilities committee meet and Senator Blaisdell supported it meet with the Governor in open session to discuss the situation but the majority of the legislative facilities committee did not support that, particularly the members in the House.

Senator Jacobson moved to divide the amendment.

Sen. JACOBSON: That the later part be separated from the former part. That is the question be separated from the analysis of voting. The affect of dividing the question would be . . . tape change . . . pertinent because it allows the people to state whether or not they might want to cut government services. I think oftentimes we get hammered down here in the state legislature by the idea that the people want increases in state services and we may be right but we may also be wrong. I'm always intrigued by the dichotomy people say we want more state services but we don't want to pay for the state services. Now you can't have your cake and eat it too. I think this will put people on the line by saying yes we do not want any more state services and we are willing to accept that we will have less state services or we have the option of saying that we are going to maintain them at the present level and therefore we are willing to accept increased revenue measures or we want more state services and therefore we are willing to accept the more revenue measures. So I think the three questions are really the critical part of the whole thing and therefore I'm in opposition to that upper part of Senator Trowbridge's amendment and I am in favor of the bottom part of it with the provision that when this goes to Finance Committee I think it would be well if the Finance committee could come up with some figures with regards to jai alai or whatever it may be. After all its a game of estimating anyway so that our proposed dividing the question would be the first motion and if thats accepted then we will vote on the first part and then vote on the second part.

Sen. ROCK: Senator, agreeing with what you've said and having the sense of the earlier vote of the 16-7 feeling of the whole Senate and since this bill has to go to Senate Finance and

since the hour is late, is it not possible that this bill could be referred to Senate Finance immediately and that the sense of what seems to be the feeling of the majority of the Senators to be worked out and bring this back at a very early date with these changes?

Sen. JACOBSON: Well Senator in response to your inquiry. That is possible if Senator Trowbridge is willing to withdraw his proposed amendment and then of course my proposal would not be pertinent to the question. If he is willing to do that then he can take it to finance under rule #24 and his committee can do anything they wish with the bill and then come forward and if the Senate agrees with what they have done. If they disagree why they can change it and do anything they want. That alternative can be done but I'm only finding out what has been done. Senator Trowbridge has offered an amendment and I've asked to divide the question.

Sen. TROWBRIDGE: I'd like to say I bring this amendment up and I'm not foolish enough to ride with the punch. I would like it if I could have the Senate Finance Committee show hands to whether Senators agree that the bottom half putting in the figures is a desirable thing to do so that we are in agreement that that part at least is acceptable so that we have some guidance from the full Senate instead of going down there and coming back with the thing and having it go down the tube. That's what I was trying to get a feeling for. You may not agree with all of my amendments but at least part of it. Is there a way we could have it informal . . . then I'll withdraw my motion.

Sen. MONIER: Its my understanding that Senator Jacobson has split this question in order that we may vote on the first three questions which are eliminated by the amendment offered by Senator Trowbridge and also to change it back to, if the state were to increase its revenues rather than make the assumption obviously what Senator Trowbridge has said is that it is to become necessary. I listened patiently since my first beating of the breast and I'm going to beat my breast again. This time I'm going to make reference to a couple of things that have been said. Number one, the comment that was made in a question as a kind of response back to Senator Lamontagne that the first part of this amendment was already adopted which includes the three questions is not in the original bill. It was not on the original bill because the original questions that were drafted and drawn up were brought with

my attention and my expressed request with respect to whether they would or would not be a valid type of thing for which we could get a response. Their feelings were that they were not again to hold the bill up in printing to all of ourselves and the sponsor. I went ahead with it with just the question on it that if the state were to increase its revenues and I will state publically that did not mean therefore I had assumed that they would need to as was implied. Knowing full well that by saving time and cutting time as we can do this afternoon by finalizing this here and then going to finance for the comments in regard to the expenses that are so desired, knowing that I could bring to the committee an amendment that finalizes this in the proper form. The three questions as posed now on the adopted amendment of AB&C, which are coded that way for ease of tabulation during the election were ramifications of original questions that were submitted with the bill. that's the reason why they were not in the first printed version of the bill, not that they were an afterthought. Number two, there is no question in my mind that these three first questions and the careful selection of their state were to increase its revenues was done specifically to come back and to neutralize as much as possible the barrage that I mentioned and the people talked about to me all afternoon. I might add, I hope that everyone that has been present here is well aware that the barrage is still continuing. For example, if we say it has become necessary to raise state revenues, which methods do you favor here, is an implication that it is so. This is exactly what I stated in my original speech has happened since January. Senator Jacobson is absolutely correct that the legislative facilities committee on April 7 to be exact, these same issues were raised. In every single case the issue is being raised on the basis of a negative attitude that there will have to be revenues raised and before everyone says we ought to know, my answer is, the people are saying we don't want them raised if thats what they want and then perhaps all this great intelligence that is telling us in figuring out how much each one of these types of various revenue raisings have spent in analyzing it, staff time, staff money and staff interpretation and in terms of their own philosophical beliefs, can also be directed as how to cut it and if it is, then perhaps we would be back to where we do not need the revenue. Its a big if and I admit this. The second thing I would like to comment on in terms of all the discussion this afternoon is that, I didn't realize that your bringing this in here in contrary

to meeting our responsibilities and not returning to the people as some kind of a commentary on Governor Thomsons budget or Governor Thomson himself. I brought it in, my name is on it, not Governor Thomson's and so are eight other senators. My last point is the twenty issues which includes Sunapee and Cannon that everybody is saying, no we really don't want those. I wouldn't vote for them I agree. Once again, this list did not come from me deliberately and in conjunction with advisement with some of the other co-sponsors. The list was made up from what came from Susan McLane's committee in which they publicized that this is the way of the current bills that were in affect in the legislature in that particular time that we could raise revenues and it included gambling bills. At that time, however, there were estimates made, as there are now in Senator Trowbridge's amendment but they included some of the estimates that were made under the gambling bills for example. I want to support Senator Jacobson's further motion. I would like to see the retention of the first three questions. I would like to see the title of the last question vote for not more than five, if the state were to increase its revenue and not go back to this implication that I or anyone else if the sponsors agree with that. Then if that is accomplished I would accept the figures or putting figures on this, but I would ask that we also include figures for the others and they are available. They may have been voted down, they may not be substantial but Senator Jacobson is absolutely right, they are all estimates. And we've all watched estimates in here for years and years and years and they are not always correct. But if your going to insist that you put down monies, I agree your not going to get me to vote to put down unknown or non-voluntary or non-taxing and if that isn't a propaganda public relations then Senator Trowbridge is slipping and he hasn't slipped a bit.

Sen. HEALY: Senator, the Cities of Manchester, Nashua, Portsmouth and the Town of Exeter and possibly others have voting machines. Is this kind of questioning going to be used on voting machines? Can the voting machines handle something like this or will we have to have paper ballots?

Sen. MONIER: My answer to that is yes. According to the Secretary of State and Mr. Ed Kelly, who I refer to as an expert on it because they would run by him as to whether they could be done. They were included only after he told me that they could be. My second answer to that is, I'd much rather

see the paper ballots, it would be much cheaper.

Adopted.

Senator Trowbridge withdrew the amendment.

Senator Preston offered a further amendment.

Sen. PRESTON: Mr. President, I said in earlier remarks the seacoast town manager said that you fellows, meaning us, are once again imposing a program upon the communities without any funds as we have done in special education and other programs. Towns and cities have not budgeted for this expense. If you're convinced at least the 15 that voted for this, that this is such a good idea, let the state pay for the cost. Here we are saying that, lets give the people a chance to voice their opinion on the revenue issues and on the other hand telling them they must pay for it whether or not their official may violate the municipal budget act so in a sense I'm saying if deep down in your hearts you like this idea then let the state pay for it.

Sen. JACOBSON: Senator you just said that we would possibly violate the municipal budget act under what circumstances would we be doing that?

Sen. PRESTON: The town managers in Hampton and Exeter, whom I have consulted with, said they had appropriated no money for any special election Senator and that was a quote I had from the Town Manager of Hampton.

Sen. JACOBSON: Is it not true in the Town of Hampton and the Town of Exeter that they have in fact appropriated money for election?

Sen. PRESTON: Not for the special election according to the town manager.

Sen. JACOBSON: Is it not true that it is not a violation of the law to actually exceed the budget as long as they have voted an item and as long as the budget is not the appropriations or expenditures are not in excess of the total budget.

Sen. PRESTON: Well, that may be true but it will take some juggling around Senator and I think and I'm thinking on the philosophy that we've imposed other programs. This is a

surprise to them and if we are really serious about it, then we should pay for it at the state level.

Sen. JACOBSON: Has the Town of Exeter or Hampton not enjoyed surplus out of other funds in previous years?

Sen. PRESTON: Perhaps because of the operating efficiency they have Senator and I hope they do it again this year not because of our actions.

Sen. TROWBRIDGE: The reason I had it brought up here is that we haven't gotten a sense of the Senate on the other amendment so that there has been good work done here today. We at least know where we stand in finance. Secondly, I don't want to go down with that amendment to finance and not have the full Senate vote telling us where they want the three hundred thousand dollars, by the state or by the towns. I think we could make a very easy vote here right now on Senator Preston's amendment. I would hope that maybe Senator Jacobson would withdraw his motion so we could vote on Senator Preston's amendment and get that over with so we know what to do. I don't see that any one committee can function very well on something of this nature. Its a simple issue. Do you want to vote the three hundred thousand dollars for the towns or not?

Sen. JACOBSON: I am perfectly willing to withdraw my motion. I was just trying to help my distinguished democrat leader because he was in the view we ought to do that so the leadership was trying to cooperate one with another but apparently its no skin off my nose.

Senator Bossie moved the previous question.

Adopted.

Senator Trowbridge requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Poulsen, Smith, Bradley, Blaisdell, Trowbridge, Healy, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Lamontagne, Gardner, Bergeron, Jacobson, Monier, Rock, McLaughlin, Keeney, Hancock, Sanborn, Provost, Brown, Bossie.

10 yeas 13 nays

Amendment failed.

SB 159 referred to finance.

Senator Jacobson moved that the remainder of the calendar be carried on to Wednesday.

Adopted.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 179-183 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 179, increasing the state board of registration of funeral directors and embalmers from 5 to 6 members. (Monier of Dist. 9—To Public Institutions)

SB 180, improving the manner of creating and maintaining condominiums and providing for full disclosure in condominium sales. (Smith of Dist. 3; Foley of Dist. 24; Bossie of Dist. 20; Trowbridge of Dist. 11; Jacobson of Dist. 7; Blaisdell of Dist. 10; Downing of Dist. 22—To Administrative Affairs)

SB 181, amending certain provisions of the land sales full disclosure act. (Smith of Dist. 3; Foley of Dist. 24; Bossie of Dist. 20; Trowbridge of Dist. 11; Jacobson of Dist. 7; Blaisdell of Dist. 10; Downing of Dist. 22—To Administrative Affairs)

SB 182, authorizing voter registration by mail. (Foley of Dist. 24; Hancock of Dist. 15—To Executive Departments, Municipal and County Government)

SB 183, the establishment of village districts. (Smith of Dist. 3—To Executive Departments, Municipal and County Government)

Senator Smith spoke under rule No. 44.

Mr Loeb's editorial in yesterday's paper was the usual diatribe against Broad-based taxes, except for one phrase which stuck out and offered itself as a threat to every legislator who at some time might consider voting for either a sales or an income tax. He suggests that his readers contact their legislators and say "if you ever want to go back to the legislature again, or if you ever want to have a peaceful life—no sales or income tax."

That type of sentence—"Or if you ever want to have a peaceful life"—struck me and others as a veiled threat that economic, social, and political sanctions would be taken against any legislator so daring to vote. This was a signed editorial by Mr. Loeb and, therefore, cannot be attributed to any of his hired hands. It would seem to me that Mr. Loeb has been associating too long and become too influenced by such groups as the teamsters and the Bally corporation. This is the kind of threat that a hoodlum makes against one of his victims—pay up or else.

It is time for the people of New Hampshire to stand up to this type of intimidation and—even more importantly—it is time for the legislature to stand up to this intimidation. The people of New Hampshire have taken great pride in their independence and in their ability and willingness to face issues, but in recent years we have cowed too long to the villainess, the hatred and the threats which have been spewn out by the Manchester Union Leader—which considers itself a newspaper. This type of veiled threat cannot be sanctioned and cannot be allowed to go unnoticed and unanswered. Any legislator who bows his head before such a veiled threat is not worthy to be called a legislator representing the good-willed people of this state.

Senator Bossie moved to vacate **SB 180**, **SB 181** from Administrative Affairs to the committee on Energy and Consumer Affairs.

Adopted.

Senator Jacobson spoke under rule No. 44.

Senator Downing moved that the Senate now adjourn from

the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in honor of today's distinguished guest Mr. Saud M.A. Shawwaf and the continued warm and friendly relationship between our State and Nation and the Kingdom of Saudi Arabia.

Adopted.

LATE SESSION
Third Reading and Final Passage

SB 123, relative to the power of certain colleges to grant degrees.

HB 147, relative to the employment of an auditor by a school district.

HB 79, relative to the location of cemeteries.

SB 144, amending the definition of a "dam" in the RSA chapter on dams and flowage.

HB 101, enabling towns to join together for the purpose of watershed management.

SB 126, relative to a police officer's attendance at public functions.

Adopted.

Senator Sanborn moved to adjourn at 6:10 p.m.

Adopted.

Wednesday, April 20

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, we prayerfully call upon thee to help us set our course through this life.

May we ever be responsive to the master of the universe, who calls us from our several stations to do "his will" for we are his hands and feet to carry his message as well as his eyes and ears also his mouth to proclaim, hear and to see the way without him we cannot progress in our work.

Let thy spirit rest upon us this day and may it guide us to heights not yet reached.

Amen

Senator Bradley led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 184-188 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 184, relative to the time involved for a final disposition of a neglected child providing that the placement of a neglected child, person in need of supervision or delinquent child shall not be at state expense. (Bossie of Dist. 20; Bradley of Dist. 5—To Public Institutions)

SB 185, relative to penalties for violation of fish and game offenses. (Blaisdell of Dist. 10—To Recreation and Development)

SB 186, relative to extending the authority of the post-secondary education commission. (Smith of Dist. 3—To Education)

SB 187, relative to the New Hampshire—Vermont interstate school compact. (Bradley of Dist. 5—To Education)

SB 188, legalizing a regular meeting of the Monadnock regional school district (Trowbridge of Dist. 11; Blaisdell of Dist. 10—To Education)

HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 7, 44, 91, 103, 263, 291, 304, 374, 668, 408, 613, 746, 691, 129, 460, 331, 109, 675, 676, 678, 695, 451, 471 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 7, increasing the number of resident New Hampshire members of the New England Board of Higher Education. To Education.

HB 44, establishing a legislative committee to study the feasibility of the state preserving farm land by the purchase of land, development rights or easements and making lands so preserved available for agricultural purposes by lease back or renting to bona fide farm operators. To Executive Departments.

HB 91, relative to assessing a charge for checks returned to all state agencies. To Executive Departments.

HB 103, relative to licensing fees for real estate brokers and salesmen. To Ways and Means.

HB 263, relative to the emergency generator at the state prison. To Capital Budget.

HB 291, making an appropriation to the department of resources and economic development for grants and loans for projects authorized by titles I, II, and IV of the Public Works and Economic Development Act of 1965. To Finance.

HB 304, providing for the establishment of loan fund revolving account which meet certain federal requirements. To Education.

HB 374, increasing certification fees for psychologists and removing the requirement of citizenship. To Public Institutions.

HB 668, authorizing the university system of New Hampshire to acquire fire, theft, and casualty insurance. To Insurance.

HB 408, authorizing savings banks to lend investment securities. To Banks.

HB 613, relative to investments by savings banks in unsecured loans. To Banks.

HB 746, to eliminate discrimination against non-citizens in the granting of liquor licenses, selling or delivering of liquor or any other occupation, profession or business activity. To Ways and Means.

HB 691, relative to a program for special education. To Education.

HB 129, exempting certain persons from prosecution relative to exposing minors to harmful material or obscenity. To Judiciary.

HB 460, amending the formula for computing the elderly real estate tax exemption and providing for local option of the expanded elderly real estate tax exemption based on assessed value. To Ways and Means.

HB 331, providing for the disposal of septic tank material. To Environment.

HB 109, relative to official state songs. To Recreation.

HB 675, relative to the definition of "minor" in the RSA chapter concerning exposing a minor to harmful materials. To Judiciary.

HB 676, relative to the burden of proof in hearings on pre-judgment attachment. To Judiciary.

HB 678, relative to the sale of property in settling estates. To Judiciary.

HB 695, naming the Robert H. Whitaker highway. To Transportation.

HB 451, relative to the authority of the commissioner of revenue administration to collect the business profits tax. To Executive Departments.

HB 471, relative to the tobacco tax. To Ways and Means.

HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SB 48, forbidding entertainers less than 18 years of age from working in places where liquor or beverage is sold.

Senator Brown moved that the Senate nonconcur, and that a committee of conference be appointed.

Adopted.

Senators Brown, Poulsen, and Bergeron will constitute the committee of conference.

SUSPENSION OF RULES

Senator Trowbridge moved that the rules of the Senate be so far suspended as to allow the introduction of **SB 188**, legalizing a regular meeting of the Monadnock regional school district, without proper notice in the journal or prior public hearing.

Sen. TROWBRIDGE: This is a legalizing bill. The Monadnock Regional school district went out for a bonding of four hundred seventy thousand dollars, it was approved by 2/3, everything was fine. Senator Blaisdell was nice enough to contact the people and say has everything been complied with when bond council looked at it, one notice was missing that they had to file on the door of the meeting hall. So they have to do the bonds by sometime early in May. They asked me if I would put this bill in to legalize a town meeting. There is no issue, there is no controversy within the town, it passed overwhelmingly and I'm hoping that you will be able to help us get **SB 188** on its way to the House so that I can get it done on time.

Sen. ROCK: How do we get the rules promulgated so that these towns know what they are supposed to do so we don't come in here at the expense of printing bills. I concur we have to do it, obviously, but how do we not have to do it?

Sen. TROWBRIDGE: One thing I've said to my people in Cheshire county for which I feel responsible is, I think we've had more legalizing in Cheshire county over the last two years than they had in the last 25 years. I've been around to the town officials that say, why is it that we are having such problems? Your question Senator Rock is that really they should know better. There isn't any excuse for this kind of mishap and the only answer I'm getting back is that, we've had a real turnover of officials in that area. For years you had experienced town clerks, you had experienced moderators and strangely enough in my area there has been a big flip-flop of people and, therefore, you have moderators that have never been there to check. I'd say there is no excuse and you're right but I can't do much about it. I'm not the one who runs the meetings.

Sen. ROCK: Would the message be loud and clear if sometime we didn't legalize one of these meetings?

Sen. TROWBRIDGE: Yes indeed. I'll tell you this, at the town meeting in Dublin the town clerk decided herself, to put in a article where she separated the town treasurer from the town clerk and that kind of thing. She did it wrong she came to me and said Rob can you leagalize it and I said no I won't. That one is not crucial it can wait until next year so I must say that I am as aware of this issue as you are.

Sen. SMITH: I rise in favor of the motion to suspend the rules and I sympathize with the towns in not always getting their warrants etc. correct and when I think of when I've talked with some of my children and castigated them for doing something and my kids will reply well, you can't always be perfect.

Adopted.

Adopted. Ordered to third reading.

Senator Smith spoke under rule No. 44.

Sen. SMITH: Mr. President I rise in pleasure today to make an announcement to the Senate in particular to emphasize to the President of the Senate, who is a sponsor of a bill several sessions ago, I think it was the last session of the legislature which made it optional as to whether or not you carry the moto Live Free or Die on the license plate in the State of New Hampshire. The Senate killed the bill but the supreme court today has overruled the state statute so that freedom and the ability to live within the moto of that state live free or die is with us once again.

Senator Rock spoke under rule No. 44.

Sen. ROCK: Mr. President, I was not only disheartened and dismayed by the decision today that the supreme court rendered affecting us here in the sovereign State of New Hampshire. I wish the record to be clear that it was not indeed a unanimous decision as several of the master justices declined to go along. I have filed with legislate services this day a bill which I will bring before the Senate in the immediate future and the bill states that if for any reason the State of New

Hampshire removes the motto Live Free or Die from the registration plates of the automobiles of this state it will be statute replace it with the motto "in god we trust".

COMMITTEE REPORTS

SB 12, relative to the procedure used to handle complaints filed with the commission for human rights. Inexpedient to legislate. Senator Monier for the committee.

Sen. MONIER: Members of the Senate there are obviously two bills here that refer to exactly the same thing with minor word changes, they are the same. HB 160 and **SB 12**. They were both heard in Administrative Affairs by Senator Brown both of them are the same both have been reported out as inexpedient to legislate. These bills do the following: They removed the current statutory acts that under the commission of human rights, the commissioners utilizing the staff capabilities would investigate the complaints that would come before the commissioner and substituted instead that the chairman of the commission would assign the complaint to a staff member to do. The hearings had some opposition to the bills, some support to the bills and the sponsors and it was the consensus of the committee as a whole that in both cases there was no need for these changes and that it might well be a burden in the long run in cost and more important that we were turning over the obligation as assigned under the commission to staff members which could generate additional complaints or differences of opinion. As a result, both bills have been reported out as inexpedient to legislate.

Adopted.

(Senators Bossie, Hancock recorded in opposition.)

SB 124, relative to suspension or revocation of real estate brokers' or salesmen's licenses. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this bill does two different things. One is that it eliminates proceedings when an appeal is made and secondly it does revoke a license, requires revoca-

tation of suspension of a license even though an appeal has been made until court has decided otherwise.

Senator Bossie moved that **SB 124** be indefinitely postponed.

Sen. BOSSIE: Mr. President, I've conversed with the sponsor of this bill who is the sincere Senator from Hampton and I understand by virtue of the fact that that Senator is a realtor by trade that he has great concern for things that have happened in the past with those things, and he will probably speak, and I'll concur with him as to the need to do something about it; but this is a bad bill and I'll tell you why. What this bill does is eliminate the need for a hearing before the superior court. De novo means new, means that you can have, if the real estate commission finds you guilty of a certain offense you can appeal to the superior court and they will try it over again before a judge at law. It's an equity matter so it will be just a judge. You don't have a right to a trial by jury. Let me tell you of an experience I've had as an attorney representing an individual before the real estate commission a number of years ago and before I was a Senator, before I knew of anyone on any board. Its very interesting in which you're entitled to be represented by an attorney and there are five commissioners on the real estate board, two of whom are realtors, two of whom are layman and one of whom is an attorney and the proceeding is such that I believe the attorney general represents the state, you go through with this proceeding and then in the back room they decide whether you have been guilty of some malpractice or mispractice or nonpractice that is required of you as a realtor. Its been my experience that in that particular instance was a sad experience because they found my client at that time guilty of a certain offense and I appealed it. This is a mans livelihood we are talking about. This isn't play time like it is for eight thousand other realtors in New Hampshire or housewives who don't have to make a living. There are nine thousand realtors in New Hampshire. Eight thousand do it part time to supplement an income. There are a number of realtors that are serious about this. Thats their job, its their livelihood. Well, what happens is if this bill passes, if this little board finds them to be guilty of a certain thing its supposed to be peer pressure, you are judged by your equals. What happened if they are found guilty, they could take their

license away immediately without appeal. That's outrageous. Anyone has a right to appeal anything. What this would do is permit you to appeal only to the supreme court on questions of law and not questions of fact. I don't particularly like to have commissions have that responsibility. And what happened on my own case a number of years ago is that I appealed to the supreme court and the case was dismissed. The attorney generals office found that there was no basis on which they could make their finding. I just think if this is permitted to go on that low and behold we are going to vest the power in these people to do something that only I think a court should do, the right to take a persons livelihood away from them. I really object to the bill, I would agree that it should probably go back to committee and then propose an amendment to have permission given to the Attorney Generals office in cases where there is a rip-off, to have the attorney general petition to the superior court for an immediate injunction against the offending realtor. I have no cause to represent realtors before the Senate. The fact remains we are talking about something that affects us all and I believe that this would be a bad bill if it should be passed into law.

Sen. SANBORN: Senator from what you have said about this you've got me entirely confused. Do I understand that if we kill this bill that the board of realtors will still maintain the right to dismiss a person if they were doing something wrong?

Sen. BOSSIE: Yes, they would. Under the present law if you file a complaint against me as a realtor, the real estate commission will hold a hearing which you'd be entitled to notice. At the end of that they would determine if you were guilty of this offense, I'm guilty of the offense you charge me with and if I am guilty, then I would be given a 30 days suspension, a \$500 fine or 6 months suspension and that is appealable to the superior court a trial de novo on the merits of the case. As it is I am entitled to two trials. If you are charged for speeding you are entitled to two trials too in the court and this would be proper. I think it should stay the same way. We are giving too much power to the commission if we pass this law.

Sen. SANBORN: Then if we pass this bill they are denied the right of the appeal to the superior court?

Sen. BOSSIE: Basically. What they will be entitled to is the ruling on the law not on fact. The trial de novo is gone.

Sen. SANBORN: We have Senator, a good many commission etc. that license people they all have the same rights to appeal to a superior court?

Sen. BOSSIE: Some do and some don't. There are some that do. But when you have a commission that affects nine thousand people I would suggest that you would want to keep close tabs on what they are doing.

Sen. SANBORN: If we give the right to realtors to appeal to the superior court, why don't we give it to all the people we license? For instance, I don't know about electricians, if they don't have the right there are a good many more than nine thousand electricians around the state.

Sen. BOSSIE: Sure. That would be fine with me.

Sen. POULSEN: Senator Bossie is it not true that the material that's gathered by the real estate board their examinations into the question and all the work they do, what they put into it isn't that all thrown out the window when they have a denovo proceeding, don't they have to start over from scratch?

Sen. BOSSIE: Senator have you ever heard of politics?

Sen. POULSEN: No sir. Not really.

Sen. BOSSIE: Well I have with regards to commissions and with a court you can be sure that no judge is going to discuss the case outside of the court. If I could be assured that no person on the real estate commission or any other board would do the same, I guess I'd have less problems. I just don't like politics in this situation whether it's this board or any board.

Sen. POULSEN: I don't know as I understood the answer to that question. Do they throw the material all away or not?

Sen. BOSSIE: Certainly not. Just like if somebody charges you with speeding just because you are found guilty at the district court level and you appeal to the superior court doesn't mean they throw out anybody's judgement. You just have to prove it to a judge. In a court of law, that's where we usually settle our problems, not before a commission.

Sen. POULSEN: Can the testimony and evidence used in the commissions case, can that be brought as a package?

Sen. BOSSIE: Surely, it would all be brought back again. It sure would. I'll tell you of another case. The Department of Employment Security for workmen's compensation if you have a hearing before the labor commissioner and you appeal you have a trial denovo and the insurance companies use this to

their advantage against the people to deny them their rights. This is one instance in which it effects many people.

Sen. HANCOCK: Senator Bossie where do you assume that the housewives who are supplementing their income or maybe supporting families are not to be considered as equals in this matter?

Sen. BOSSIE: Well let me say Senator as we have discussed this morning, I would say to you Senator that this would apply equally to any male who takes a job who does it on less than a full time basis to supplement their income rather than the prime source of income. If I offended your sensibilities, I apologize.

Sen. PRESTON: Mr. President fellow Senators, I had the privilege of having lunch today with the Senator from the 20th district. He did speak to me about my bill, he said "I don't like your bill". I in no way want him to convey the impression that we have some type of agreement on the motion before you and I wish to speak against it. To quote Senator Bossie's words, and he is a member of consumer affairs, the very purpose of the bill is to stop the possible rip offs that can occur. I was asked to sponsor this by the director of the real estate commission and the attorney generals office because of a couple of cases and instances where the public was ripped-off by one agency of perhaps over one hundred thousand dollars. Under the present set up the commission can hold hearings and revoke a license but once the attorney appeals to the superior court all of the action of the commission is negated and through the appeal process I could continue to operate for a period of two to three years and continue in my case, in my small operation of handling hundreds of thousands of dollars in rentals or sales, keeping it and spending it and not giving it to the landlords or the owners of the property and thats what can occur and thats the very purpose of the bill. Now the attorney general's office did state that because of the political maneuvering it was very difficult to enter the testimony that was presented before the Real Estate Commission at hearings into the courtroom over the objections of these very competent attorneys we hear about. So thats their purpose, and the person so accused has the right within 30 days to appeal the decision to the superior court not the supreme court as Senator Bossie said. Its to prevent rip-offs of the public. I didn't sponsor it because I happen to be in the real estate business, I was requested to do so by the attor-

ney generals office. Its a consumer bill and I oppose the motion.

Sen. BOSSIE: Senator Preston if I should withdraw my motion of indefinite postponement and I should substitute the motion to refer it back to committee with the hope that you would amend it to allow de novo appeals but to put in the provision that in cases of such fraud the Real Estate Commission shall forward it to the attorney general who may then seek an injunction without posting a bond would that satisfy this need that you have for this bill?

Sen. PRESTON: Senator, I am happy with the bill in its present form and I have the greatest confidence in the committee members that looked at this and I don't see the benefit of an amendment.

Senator Rock moved that **SB 124** be laid on the table.

Division vote: 12 senators voted yea. 4 senators voted nay.

Adopted.

HB 98, relative to an agency's readoption of edited rules and relative to notice requirements in the rule adoption procedure. Ought to pass with amendment. Senator Brown for the committee.

Amendment to HB 98

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Readoption of Edited Rules. Amend 1975, 309 by inserting after section 4 the following new section:

309:4-a Readoption of Rules for Initial Publication. An agency may readopt any rule which has been edited for form and verbiage and which has been filed before the initial publication of the compilation of rules pursuant to RSA 541-A:5, I without meeting the notice and hearing requirements of RSA 541-A:3, I, provided that the director of legislative services shall notify the chairman of the legislative committee having jurisdiction over the subject matter that editorial changes in form and verbiage have been made to the rule. Rules so

adopted shall be refiled and certified in accordance with RSA 541-A:4, I and shall become effective in accordance with RSA 541-A:4, II.

Sen. BROWN: The amendment is on page 6 of today's calendar. The amendment adds the sentence-provided the director of legislative services shall notify the chairman of the legislative committee having jurisdiction over the subject matter that editorial changes in form and verbiage have been made to the rule. When an agency wants to promulgate a rule or regulation they go through the present statute the forms and so forth and it gets to legislative services. This gives legislative services the right to change a form and verbiage so it will be the full intent of the law and the committee. They then send it back to the agency for approval and also a letter is sent to the committee to see that the original intent is kept.

Sen. BOSSIE: Senator, has Steve Shaw opposed this bill?

Sen. BROWN: He came down and testified in support of the bill.

Sen. BOSSIE: This bill in no way will detract from the intent of the law as was proposed by an earlier senate bill that any rule that is not published in accordance with the law shall not be in effect. This would not effect that in any way?

Sen. BROWN: That is true Senator. This is strictly to change the verbiage in the form so it will be the legal intent before its printed in that booklet.

Amendment adopted. Ordered to third reading.

HB 160, relative to the procedure used to handle complaints filed with the commission for human rights. Inexpedient to legislate. Senator Monier for the committee.

(Senator Sanborn in the chair)

Sen. MONIER: Mr. President, we've already discussed this under Senate Bill 12. The two bills are identical and the committee testimony indicated this in which the representative who was the sponsor admitted that it was and as a result of my comments to him, the committee was strongly committed to this inexpedient to legislate on both bills.

Adopted.

HB 435, lowering the age at which the minimum hourly wage applies. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill changes the age limit of the minimum wage only effects those between the ages of 18 and 19 we think it would do them much more harm than good. It would make it necessary for an employer to pay them the full minimum wage which is \$2.30 instead of 3/4 of that. These are mostly kids in their last year of high school or else possibly the summer before college or a first job. I think they are much more available for employment at the old rate than they are at the higher new rates. So we think its to the good of the young people that we make this inexpedient.

Sen. BOSSIE: Senator, is it my understanding that all this bill does is to lower from 19 to 18 the age?

Sen. POULSEN: That is exactly right.

Sen. BOSSIE: Is it further true that people who are 18 years of age are adults for all purposes at this time?

Sen. POULSEN: I suppose there is a difference in the age of adultry under different laws.

Sen. BOSSIE: Senator, did representatives of the fast food industries such as McDonalds appear in opposition to this bill?

Sen. POULSEN: There was no opposition whatever to it.

Sen. BOSSIE: I mean in favor of the bill.

Sen. POULSEN: I think only the sponsor testified.

Sen. HANCOCK: Senator Poulsen, I'm not altogether clear on why you think this would be injurious to people whom it would apply to.

Sen. POULSEN: I believe Senator that an employer would be much more apt to hire a young person if the wage was a little better. In other words he would be a little of a bargain to the employer and a little bit more appealing. There would be more reason to hire a good strong kid at \$1.80 an hour than if they had to pay him \$2.30 an hour at which price they will be getting experience.

Sen. HANCOCK: In other words your saying you think there would be more job opportunities for the youngsters if they were to accept a lower wage?

Sen. POULSEN: I fully believe that.

Sen. HEALY: Senator, should your plan of having this

inexpedient to legislate detract from the 19 year old candidates for a job to give the 18 year old a job, how do you come to equivalency on it a feeling that a man 19 years old should not have a job while a person 18 years old should have a job?

Sen. POULSEN: Senator, we feel that a man 19 is already employed or going to college, 18 to 19 is particularly the age between high school and college or first job and its the time when they are searching deligently for a job. I think there is a better opportunity for them if they are a little better bargain than the older ones.

Sen. HEALY: Senator, I think I understand your reasoning but did you ever stand in line in an employment insurance office and see who has the jobs and who does not have the jobs on an age status?

Sen. POULSEN: No sir I haven't stood in line once.

Sen. HEALY: Do you think a man who is 18 years old and qualified to stand up a no fight for his country should not be considered or qualified to hold employment as well as the man who is 19 years old and more susceptible to be involved wearing a uniform than one 18 years old today? How do you equate the age of 18 and 19 and putting a priority over one age instead of the other age? To me that is a little confusing.

Sen. POULSEN: The law now applies to 19 year olds who are already covered under the minimum wage law. The 18 year olds are not, they get 3/4 of it. We think it would be best to keep it that way and jobs would be more available to them at that particular age that high school-college age where most of them are at that point.

Sen. HEALY: In other words you feel that the man 19 years old should get more than the man 18 years old in a position even though the 18 year old man is ready to wear a uniform for his country and fight for his country just as much as a man that is 19 years old?

Sen. POULSEN: I wasn't equating it with the military services just on job opportunities. We think this is more just this way than to pass the bill.

Sen. HEALY: Don't you think that for the sake of equity that the 18 year old man is as qualified to receive a satisfactory wage as a 19 year old man?

Sen. POULSEN: I think Senator, we are changing the drinking law to 19 and I think the same logic applies to that, someone has to draw a line somewhere I suppose to make laws, otherwise we would be down to age 0.

Sen. HEALY: I don't think that drinking in different states for example, the drinking age is varied, but there is still one law in this country that says a man of a certain age can be called into the service of this country and I think I'd like to stand forward and say a man of 16 or 18 years old should have equality as the man who is 19 years old if it comes to job employment.

Sen. SMITH: Senator, isn't the intent also of this report of the committee to try and keep as you indicated the people 18 and 19 from having a difficult a time of transition for these people? Many of them if offered a job, if an employer were out looking for cheeper help, they would be more inclined to leave school and by killing this bill we would stop, to some degree, encourage kids to stay in school and finish up their high school work.

Sen. POULSEN: I think definitely it would Senator. I think the thoughts behind the question is very good. It would make enticement which I don't think we want, I think this would encourage kids to stay in school and I think it encourages summer employment which I think is more available to them at a reduced rate than it would be at the full rate.

Sen. ROCK: Senator, is it not a fact that if a person between the age of 18 or 19 or for that matter a person of the age of 16, 17, 18, or 19 worked for a fast food chain I think Senator Bossie referred to a McDonalds, isn't it true that that company is engaged in interstate commerce and come under the federal statutes and have to pay the \$2.30 anyhow?

Sen. POULSEN: I'm sure they would. I'm sure that most of those larger stores are under union wage scales.

Sen. ROCK: So then the young person that works at the filling station or at the First National Store or Stop and Shop or at McDonalds, or Burger King or anyone of those that has headquarters that are outside the State of New Hampshire automatically come under the federal minimum wage that this bill doesn't change one single thing, they are already paid that minimum whether they are 16, 18 1/2 or 19?

Sen. POULSEN: Thats true. And it also doesn't make an employer have to pay the minimum wage.

Sen. BOSSIE: Senator Poulsen do you recall a few years ago in reference to this federal minimum wage, that President Nixon, when he was president, had received a substantial campaign contribution from the president of McDonalds and soon thereafter he vetoed a bill which would include teenagers or at

least some teenagers of higher age in the minimum wage provisions of that law so that he vetoed that and now all these people that work at McDonalds are not covered by the \$2.30.

Sen. POULSEN: I'm not familiar with it but I am not displeased.

Sen. BROWN: Senator, is it not true that industry not only in the State of New Hampshire but nation wide rather than because of the minimum wage at 18 or 19 keeping their regular employees on and paying them overtime rather than hiring the younger people because of lack of expertise and thats where the unemployment line is growing in relation to the 18 year olds that Senator Healy spoke about.

Sen. POULSEN: I'm sure thats right Senator.

Senator Saggiotes moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. SAGGIOTES: Mr. President, I think that most of us understand what we are talking about \$2.30 as the minimum wage and I support the bill and oppose the committee report of inexpedient to legislate. On a matter of principal and as a former employer in the food service where I had the opportunity to employ 16, 17 and 18 year olds, I found that I was able to get probably as much work, efficient work if not more work and more efficient work out of the younger people than those that were over 18 years old. When we talk about expertise or people in the skilled trades we are not talking about \$2.30 and for these reasons I feel that an 18 year old who generally does the same amount of work as a person that is older should deserve to get a measly \$2.30 and I don't feel that an employer should exploit an individual because he can hide behind the law.

Sen. BOSSIE: Mr. President I rise in support of the motion of Senator Saggiotes and I was about to make the same motion when he did. I just cannot buy the argument by Senator Smith that by paying these kids 2/3 or 3/4 of \$2.30 we are encouraging them to stay in school. This is hogwash. What it is that who today can live for \$2.30 that is 18 years old? Most people that are 18 years old are either out working for a living or are graduating from high school. I just cannot believe that we will continue to put them in a category less than adults and as my good friend Senator Healy pointed out, these people are good enough to fight for our country then the

least they can do, or we can do, is pay them the minimum wage. I just can't believe that an adverse report has been submitted on this bill. At the same time, I think what Senator Smith referred to is that instant pleasure of receiving some money is certainly better in the eyes of some young people by delaying their pleasures for long term goals. This is something that is bread into people, its a proof of their character and just because somebody isn't going to be college bound they are entitled to something and if they might as well be on welfare then to work for seventy five percent of the minimum wage. Most people, most young people, to my knowledge, don't have their first job at age 18. I was probably on my 5th one. I worked hard since I was 13 years old to raise money to go to college. Of course I didn't make \$2.30 in those days but the fact remains that times have changed and its more expensive to live and certainly we don't want to put our businessman out of business. If they are in a position to pay \$2.30 for an 18 year old I think they should and if they are under 18 years old that is fine that they pay the other wage. I think this would be a good bill and I agree with the good senator.

Sen. PRESTON: Mr. President, I'm not going to speak as a small businessman myself, but I think I recollect in this chamber when an 18 year old bill came before us all but one Senator that was here at the time voted for this and I think if we are to be consistent and say that yes, we recognize adulthood here. I know the drinking issue thats going to come before us here in this very chamber but we allow the 18 year old to go to the polls to vote and now allow him the right to sign all types of contracts to assume mortgage payments and pay for automobiles and just to try and be consistent. I think that we should put the 18 year old to classify him as an adult as far as making a living goes and I support the motion by Senator Saggiotes.

Sen. TROWBRIDGE: I will say this, that nothing in this bill prevents me or anyone here as an employer from paying the minimum wage to an 18 year old or 16 year old as far as I understand the bill. Nothing prevents me from doing that. Senator Preston comments saying if we allow the 18 year old to vote true, but we don't tell him he has to vote and we don't tell him how to vote and we don't shove him into the polls. We don't make him make contracts just because his is 18. He can make a contract but if he doesn't choose to, he doesn't have to. Its all permissive as far as I can see on the 18 year old.

Your turning the argument logic around Senator Preston when you come back saying that because we have permitted 18 year olds to do certain things at 18 that you must pay the \$2.30. Thats a reverse logic that I don't think carries and I think that anybody who's employing people for very long a period of time as Senator Saggiotes said obviously pays the minimum wage or more to someone who's valuable.

Sen. PRESTON: Senator Trowbridge aren't we saying to the employers that you must pay those 19 year olds or older the minimum wage?

Sen. TROWBRIDGE: If you are in an industry that commands the minimum wage, yes.

Sen. PRESTON: If we are to consider the 18 year old as an adult, wouldn't it only be proper to say that you must pay the 18 year old minimum wage?

Sen. TROWBRIDGE: As I just said 18 is pretty young as everybody has pointed out, but you're acting as if somehow if we don't pass this bill no one will pay the minimum wage to any 18 year old. Thats just not true.

Sen. MONIER: I rise in opposition to the good Senator from district 8's motion. We talked quite extensively about this in committee and one of the things that disturbed me and some of the other members and some people there was the simple fact that by so doing you may be denying some of them some kind of livelihood. I don't want to disagree with Senator Bossie and Senator Saggiotes and Senator Preston in this matter but I can assure you that there are a lot of kids today that are looking for jobs and they might possibly have more of these available if they are not forced in certain kinds of industry to pay the minimum wage. Most of the people below 19 are still in high school or on their way to college or are in between and in many cases they would much rather have a job to earn some kind of money than to perhaps be denied this kind of position. I have a son for example that will be 19 this August, he has worked for two or three summers and to be quite frank with you he would have worked at a wage he felt that he could live with and he could make that choice himself and I think in one or two of those positions you would have run him out of that position if you had a minimum wage on it and as a result thats one of the reasons why I supported the original inexpedient to legislate.

Sen. LAMONTAGNE: Mr President members of the Senate I rise to oppose the proposed motion. I personally feel

that if this motion is passed as its been proposed at this time, its going to hurt the 18 year old. I believe that this bill should be inexpedient because an 18 year old who just about graduates from high school and therefore has not had the opportunity of being able to get into the labor market. At the same time if the person has not been into the labor market it isn't fair for the employer to hire someone who doesn't know anything about the work. Those who graduate at the age of 18 have never been into the labor market and never worked that your going to make it harder for them to get a job because of them not ever being in the labor market. I'm a small employer myself and I'm certainly going to hire someone with experience and I would certainly not hire someone who has no experience who just came out of high school. Its true that these youngsters want to work. Especially to go to college.

Sen. SAGGIOTES: Senator Lamontagne what leads you to believe they won't be able to get a job?

Sen. LAMONTAGNE: Because right now youngsters are having a hard time to get jobs and I'm talking about 18 year olds.

Sen. SAGGIOTES: Senator, wouldn't you agree with me that if all the employers had to pay the same minimum that the same amount of job opportunities would be available?

Sen. LAMONTAGNE: The jobs available would not be there for the 18 year old because they haven't been in the labor market. As an employer I would hire an experienced person because he has established a record of working and when you check you can find out that the individual has worked and you find out what kind of work he did but if he has never had a job you have no opportunity as an employer to go ahead and do any checking.

Sen. SAGGIOTES: Wouldn't you agree with me Senator that if the individual that was older than 18 that had established himself at that particular job would have become so experienced and so proficient in work that he would probably go on to another job that payed more than \$2.30 that would allow a vacancy that would create a vacancy in that job that pays \$2.30 an hour?

Sen. LAMONTAGNE: You may find a few, but a very few.

Sen. ROCK: Mr. President I rise in favor of the committee report that was given by Senator Poulsen inexpedient to legislate and in opposition to the present motion, I think there is one underlying factor that the Senate should consider well before it votes on this issue. The state minimum wage law tends to follow the federal minimum wage law and the federal minimum wage law is \$2.30. Its expected that within a very short period of time that will be increased by congress and depending upon which source you tune in that could be one of many varied animals before it comes out of Washington. I personally favor a modest increase in the federal minimum wage but what scares me to death is that there is now before congress a plan that would tie the minimum federal wage to indexing and let me explain that horrendous animal to you. Indexing means that the federal minimum wage would be raised immediately probably to \$2.50. On December 31, 1977 they will take an average of the manufacturing wage nationally which right now happens to be \$5.15 and the federal minimum wage will go to 60% of that and automatically every year thereafter on January 1 the indexing of the federal minimum wage will take place. What does that mean? It means that if you raise the federal minimum wage to \$2.50 and as always been the case, our State minimum wage will follow it. You don't only raise the minimum wage. You cannot raise just the minimum because people who earn more than the minimum are being short changed once the minimum wage is raised. So the person making \$2.85 an hour now looks at the new comer who makes \$2.50 and says I'm worth more than .35 an hour more than that person Mr. Employer I want a raise. Mr. Employer says that right you have been here quite a while we must by law hire someone new at \$2.50 an hour so your wage goes to \$3.00 an hour. The increase in the federal minimum wage for instance in Nashua, New Hampshire, Nashua St. Josephs Hospital will mean somewhere in excess of one point eight million dollars like that and what happens next January 1, 1978? You've increased all the averages and now so the indexing says 50% of the federal manufacturing wage which used to be \$5.15 is now \$6.00 so we take 60% of that so the federal minimum wage is \$3.00 and that pushes the whole scale up. Now what your saying here today is your hooking your wagon on to that cart and I suggest you do it very carefully.

Sen. SMITH: Mr. President I rise in opposition to the

present motion and I do so because I have been listening to the arguments about which we had two years ago to reduce the minimum age which a child must go to school. The same applies here except a little bit in the reverse. What you are doing if you raise the 18 year old which is a very delicate age with kids. The kid's not doing well in high school he can go out and get big money, the minimum wage he is more inclined to leave school and I think also having an 18 year old in my household that he has worked summers and kids know pretty darn quick which employers are which and if an employer offers a low wage those kids are not going to work there. Kids won't do it because they know with the average employer that they are going to get minimum wage or better and if they work they will be rewarded for it but I think what is the bad thing about the passage of this type of bill would be the encouragement of kids to get out into the labor market before they finish school.

Sen. HEALY: Mr. Chairman, I rise in support of the present motion on the floor. I feel that we are talking about children and their future in one respect and children who want to work in another respect. The community you go into could be a farming community or it could be an industrial community and I'll say if they come to Manchester, the community I represent, you'll find that the factories would go for the cheaper worker rather than accept one that's going to cost so much more an hour. To me it's one of these contradictory things that can involve putting an 18 year old to work as someone suggest and they could bypass the 19, 20 or 21 year old person because they can get the 18 year old boy cheaper. Now the 18 year old person could be just as qualified as a 19 or 20 year old man it all depends on intelligence. When you're talking about trying to stimulate a young man to continue his education that's another thing. The educators might say yes we will discourage him so he won't get a job, won't go into industry but you don't discourage a young man who wants to go to work. If he wants to go to work in industry or a vocation school to train for something mechanical or something that's going to be practical in his life and something that he is going to enjoy he is the man, not our thinking. I think it's up to the person and not some educator like myself or Senator Smith or anyone else that's involved to decide the future of the young people. I think the young people today are very intelligent and are going to do what they want to do and I can't feel that one

year in age is any big differential when it comes to payment of salary.

Senator McLaughlin moved the previous question.

Adopted.

Senator Saggiotes requested a roll call. Seconded by Senator Bossie.

The following senators voted yea: Saggiotes, Blaisdell, Keeney, Hancock, Healy, Bossie, Fennelly, Downing, Preston.

The following senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Monier, Trowbridge, Rock, McLaughlin, Provost, Brown.

9 yeas 12 nays

Senator Foley recorded in favor of the motion.
Motion fails.

Motion of inexpedient to legislate.
Senator Rock moved the previous question.

Adopted.

Adopted. (Senators Downing, Bossie, Foley, Preston, Hancock voted in opposition.)

SB 120, relative to including investigators in the office of the attorney general in the definition of law enforcement employees entitled to additional salary increases. Ought to pass with recommendation that this be sent to the senate finance committee. Senator Monier for the committee.

Sen. MONIER: Mr. President this bill as it states in its title, is to include investigators in the office of the attorney general in the definition of law enforcement employees entitled to additional salary increases. Before anyone asks it, no they do not fall under class II for retirement. We have reported this out and referred it to Senate finance for two reasons and I

want to briefly say so. The first is because there was no money attached to it but we know its going to cost money and the second was that we did not have the figures. We now have the figures and I will give them to Senator Trowbridge as they were given to us by the attorney general and that's the reason we ought to pass but be referred to Senate finance.

SB 120, referred to Finance.

HB 215, permitting the posting of "for sale" signs in mobile home parks. Ought to pass with amendment. Senator Hancock for the committee.

Amendment to HB 215

Amend RSA 205-A:2, II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

II. Deny any resident of a mobile home park the right to sell at a price of his own choosing, said resident's mobile home within the park or require the resident or purchaser to remove the mobile home from the park solely on the basis of the sale thereof. A resident of a mobile home park may place no more than 2 "for sale" signs on or in his mobile home for the purpose of selling said home. The owner or operator of a mobile home park shall make no rule or regulation, nor enter into a contract, which shall abrogate or limit this right; provided, however, said owner or operator may by rule, regulation or contract provision impose reasonable limitations as to size, quality, registration of such signs, requirements that the posting of such signs be pursuant to bona fide efforts to sell, and removal when the home is no longer being offered for sale. No such limitation as to size or quality shall restrict the use of a painted or printed sign which is 216 square inches or less in size and which contains no more than the words "For Sale". The park owner or operator may reserve the right to approve the purchaser of said mobile home as a tenant, but such permission may not be unreasonably withheld. The park owner or operator may require as a condition of said permission that the purchaser and his household meet the current rules of the park. The park owner or operator shall not exact a commission or fee with respect to the price realized by the

seller unless the park owner or operator has acted as agent for the mobile home owner pursuant to a written contract.

Sen. HANCOCK: Mr. President members of the Senate if you would turn to page 7 in the April 20 calendar the amendment is printed therein. The amendment is the result of consensus among the attorney general's office attorneys for the mobile home industry and the sponsor. It says in effect that a person owning a mobile home within a park shall be permitted to use for sale signs in the endeavor to sell that mobile home. It stipulates that the sign shall not be over 216 square inches and it also stipulates that the mobile home owner operator shall not exact a commission fee unless he was so authorized as a salesman for the mobile home. Simply allows a mobile home owner in a park to display two for sales signs.

Amendment adopted. Ordered to third reading.

SB 37, authorizing the acquisition of land for fish and wildlife areas and making an appropriation therefor. Inexpedient to legislate—Majority: Ought to pass with amendment—Minority. Senator Healy, Gardner, Lamontagne, Preston for the majority. Senator Hancock for the minority.

Senator Preston moved that **SB 37** be made a special order of business for Thursday, April 21, at 1:01 p.m.

Adopted.

HB 68, relative to administrative functions of the fish and game department in declaring the opening and closing of seasons relative to fur-bearing animals. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President members of the Senate, **HB 68** does two things. It lists certain furbearing animals and secondly it turns over the setting of hunting and trapping seasons to the Fish and Game Department. You will notice that this is for a period of two years only. In the amendment it is on a trial basis. Right now the bobcat is in danger and he can be hunted for 12 months a year. There is nothing that can be

done until this bill is changed. I urge for the passage of this bill.

Sen. POULSEN: Mr. President, I rise in favor of this bill only because it has a two year trial period. I'm sure that we want to have the commissioner set the dates. I'm not so sure that the Fish and Game commission shouldn't be doing it but as a trial basis I'm all happy to go along with it.

Sen. LAMONTAGNE: Mr. President, I'd like to speak for myself as the Senator from the first district. The first thing I'd like the Senate to know that this is the first time in many years that I have seen hunters, trappers, who have always been having arguments amongst themselves as far as legislation. For the first time I have seen the hunters, the fisherman, the trappers in favor of HB 68. So, therefore, I think this is just wonderful to see the people who in the past used to call themselves sportsmen and I often wonder why they called themselves sportsman; but at this time I'd like to say that those people who appeared before our hearing certainly were sportsmen and it was wonderful to see these people all together.

Adopted. Ordered to third reading.

HB 360, relative to the training of hunting dogs. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: This bill was requested by the Fish and Game committee. They felt that it was necessary to update their files, and it is more or less a housekeeping bill. The amendment has been adopted by the House not by our committee and the only difference is that, in the regular law at the present time, it says there will be a fee if this permit shall not exceed \$2.00 for the beagle trails; it is being changed to the American Kennel Club. They felt that it should be in there because of the fact that the dog training fee on the first page of the act also mentions the \$2.00 fee for the training of other breeds of dogs as well.

Adopted. Ordered to third reading.

SB 104, relative to the stocking of fish by the fish and game department. Ought to pass. Senator Healy for the committee.

Sen. HEALY: This bill was submitted to me by members of the Trout Unlimited and other sportsmen. Actually it does nothing but change one little section. Its an insert into the rules and regulations of the fish and game rules and what they say on this here is really an insert but it helps out the Fish and Game Commission in the distribution of stocking fish in the streams. The sportsmen have all approved it and also the Fish and Game sent a letter endorsing the bill and they claim it's for the better distribution of fish because in the past sometime they didn't have the time or the help and they were just unloading fish into streams without giving a better distribution of the fish. Members who will be helping are no way liable for injury and in so doing they have their own legal protection so they feel its for the better quality of fishing and they really endorse and support this measure and they claim also that much of the stocking is done in the summer season.

Sen. LAMONTAGNE: Mr. President, members of the Senate, I arise in support of **SB 104**. This is a group of people who belong to an association and therefore they are interested in helping the Fish and Game in stocking fish. As its been said by the honorable Senator Healy, they are paying their own fee for workmen's compensation and they are covered by insurance, and therefore in no way will the state be liable for any injury. This is a group of people that like to work along with the Fish and Game Commission.

Adopted. Ordered to third reading.

HB 324, relative to the taking of bobcat and fisher. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, again it was wonderful to see a unanimity of opinion and purpose among trappers and preservationists and Fish and Game Department personnel. The bobcat and the fisher have become exceptionally valuable since the passage of the Endangered Species Act of 1969, which made it impossible for ladies to have coats made of leopard and other African and imported skins. Therefore, there has been increased value and increased trapping to the extent that commercial trappers and the Fish and Game professional staff are worried about not necessarily extinction but are worried about the lessening of the available animals. So they are recommending together that

there be a moratorium on the trapping of the fisher cat and the bobcat, and as Senator Lamontagne said, the bobcat is now wide open on a 12 month basis, and as you, Mr. President, told me the other day, the fishercat is becoming extinct because it is so easy to catch and I think you said it's because you didn't think he was very intelligent. So with that I ask that the Senate adopt the committee recommendation.

Sen. HEALY: I attended that meeting and just about everybody present and all the trappers that were there all strongly endorsed this particular piece of legislation. They also endorsed it so much to the extent that they would like to change the time it becomes effective after 60 days of passage to passage going into effect immediately, so I'd like to present an amendment saying that it shall take effect immediately upon passage.

Adopted. Ordered to third reading.

SB 142, amending the definition of moped in the motor vehicle laws. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill changes the definition of a moped not in its basic definition but in the definition of what powers a moped. It is primarily introduced to take care of an electrically powered machine that an old woman in a neighboring town was using and would have had registered as a motorcycle and I expect the old woman would had to have worn a helmet had we not changed it so that her tricycle would be classified as a moped instead of a motorcycle.

Sen. ROCK: Senator does this have anything to do with jet-powered mopeds?

Sen. POULSEN: Senator there was indication at the hearing that the sponsor of the bill did in fact have a moped with jet power but we don't know that.

Adopted. Ordered to third reading.

HB 82, relative to the surname of spouses after marriage.

Motion of inexpedient to legislate.

Senator Foley moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

(Senator Smith in the chair)

Sen. FOLEY: Under current New Hampshire law name changes are addressed in several places. RSA 547:7 give the probate court judge jurisdiction to change the name. 548:24 gives the superior court jurisdiction to grant a request of name change to a women in divorce proceedings. Aside from these laws, other people have common right to use the name he or she wishes to use as long as the name is used consistently and not for fradulent purposes. For some time women who wish to use a different name than their spouses or many of them wish to use a hyphenated surname, they have encountered severe-difficulties especially from state agencies. Tradition and custom always have been that a women takes her husband name on marriage, and I am sure that this will continue, however, less than 2% of the population spread over the entire state wish to use a hyphenated name. I think this acknowledges the right of each party to a marriage to chose a name if they want to and I think that it will alleviate many of the problems that women are having. It's very difficult when they have to pay to go to court to have a hyphenated name when actually it is their right. I move that the bill pass.

Sen. HANCOCK: Mr. President, members of the Senate, I support Senator Foley's motion and I would like to say that as she pointed out that it is now possible under common law to have these name changes occur, however, this would clarify the situation and it would make it very much simpler in pointing out specifically to an act which clearly states without any obfuscation that that right exists and I would urge we support Senator Foley's motion.

Senator Sanborn moved that HB 82 be indefinitely postponed.

Sen. SANBORN: Mr. President, members of the Senate, I do this for one principal reason, my aged and decreped mother was about 84 years old and has a bad heart and so forth did see copy of this bill and was very unhappy. She said this is Woman's Lib and everything else, and she said to me "I was always thankful that I wasn't named after my two grandmothers" if she had, her name now would be Panthia Priscilla Babcock Tucker Towle Ann Elizabeth Allen Evans Brown Sanborn Wares and she says that's going to far and she says I

hope you kill that bill, that's why I make the motion.

Sen. FOLEY: Senator Sanborn do you always do what your 84 year old mother says to you?

Sen. SANBORN: In this case, I respect her age and her wishes.

Sen. LAMONTAGNE: Senator, I'm not familiar with the law but I'd just like to ask you this question, at the present time, a divorcee, can she change her name at the time she is receiving her divorce?

Sen. FOLEY: She can change her name legally, go back to her maiden name if she cares to, as long as she asked the court to do it.

Sen. HEALY: I want to speak in support of Senator Sanborn's motion. The majority report of the committee reported that this bill should be inexpedient to report. We had quite a hearing. There was quite a few people there, pros and cons and some of the women that appeared opposed this particular bill. Town clerks opposed it, school officials opposed it, members of the New Hampshire Tax Collectors Association were in opposition, and I heard from a number of county people including registrar of deeds, probates and so forth they also opposed it. They said it would create quite a bit of chaos and so forth. One particular problem that was outstanding was a case where a man who should become a widower or divorced and in turn he gets married again; in getting married this creates quite a few changes on deeds and public records. It gets complicated and there is a law now which gives those who want to live under the common law jurisdiction they can so do it. In the public interest we say this type of bill should be killed.

Sen. BOSSIE: Mr. President, I rise in support of the motion of Senator Foley and Hancock. The fact remains that no matter what you do with this bill, as you know, the common law permits anyone to use any name they want. So what your doing is saying that you can't do what your doing but they are going to do it anyway. I just had a case in my office two weeks ago a women and husband came in for a will I asked their names and her name was different from his and I said are you married, Yes, wouldn't be a little better to use your married name in your will? No, I consistently use my own maiden name and notwithstanding the fact that I am married and I want to do it this way and she asked me is that legal and I said it sure is. There is a bill before the House and Senate which would change that to some extent, so it would not really,

which would permit it and I said you may do that if you want and in fact if you want to use any name in the world you want you may use it, and Senator Bradley can ratify this for me. If you want to call me Robert Monier you may as long as I use it consistently and without intent to defraud. That is the law in the State of New Hampshire. If our two senators here want this bill, I think we should show them the courtesy of this. I don't think this should be used to demean anyone as some might have it.

Sen. MONIER: If you say as a lawyer that it is perfectly legal to do it now, would you mind telling me why we have a bill before us in the first place?

Sen. BOSSIE: Frankly, I don't know. The law will stay the same whether this passes or not. I don't want in any way to negate this bill by saying that. These Senators and the whole House of Representatives want this bill. I see nothing wrong with it and the law is going to stay the same whether we like it or not.

Sen. MONIER: Then if it is not necessary to have the legality of the bill in order to do this, there must be another motive for it of which we are then voting on rather than the legality of the bill.

Sen. BOSSIE: I don't know any motive other than the fact that it is a legal sort of thing and is proper. That's all I care about.

Sen. HANCOCK: Isn't it true, as Senator Foley pointed out, that although it is now possible to change your name, it's more difficult in that this would be a clarification that would make it much easier for people to show the town clerks and the register of deeds who ever wanted to know, it's not that simple right now?

Sen. BOSSIE: Well, see I don't know and I wish I could say yes, but I don't know the answer but I do know this that if you go to the town clerk and you say my name is Senator Hancock Monier and you want to get married under that name or do what ever you want under that name, I think that person has to accept that as long as you can show that you consistently use that name. I think any court would uphold your right to use that name.

Sen. HANCOCK: You really don't think this would clarify the situation then? Make it simpler?

Sen. BOSSIE: I don't think that many people know about it. A lot of people are doing this as you know, using inter-

changing names, hyphenating them and all sorts of things of that nature. I think it would make it easier for the town clerks to understand it because quite often they are controlled by bureaucracy and they don't pay attention to things. I think this would be easier in the end.

Sen. HANCOCK: Are you aware of the harassment which is now tendered to people who want to do this by town clerks?

Sen. BOSSIE: I'm not.

Sen. BRADLEY: I rise in opposition to the motion to indefinitely postpone. Just to follow up on what Senator Bossie had to say and the questions between him and Senator Hancock. I agree completely with Senator Bossie what the existing law is without this bill, that you can do it. Senator Hancock has put her finger on the problem. This law like a number of areas of law are not all that clear particularly to the man on the street and to the many officials and semi-officials that get involved in dealing with peoples names and it would be very nice for the people who want to exercise their rights on the law to be able to have a nice neat statute which would be provided by this bill which would say this is the law. If you don't believe me, here it is. Now you have to say if you don't believe me, go ask Dave Bradley or Bob Bossie, who tell you its a law, and we'd have a hard time putting our fingers on a nice little provision in the law books that would say that. So that's what the bill is doing. Its going to clarify the law. Its going to make people understand better where they stand.

Sen. LAMONTAGNE: Senator is this a lawyer's bill?

Sen. BRADLEY: No.

Sen. FOLEY: I would just like to say that I am not traditionally a womens libber, and I don't think anyone here would say I was when you look at some of the votes I've made concerning womens lib, however, and I doubt that I will ever use my hyphenated name. I like my name and I'm using it the way that I have; but if Farrah Fawcet-Majors wants to come here and she's got a hyphenated name and I think she can come legally, have a great time, and I think we should have a law to protect her.

Senator Fennelly requested a roll call. Seconded by Senator Bossie.

The following Senators voted yea: Lamontagne, Poulsen,

Gardner, Bergeron, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown, Fennelly.

The following senators voted nay: Bradley, Trowbridge, Hancock, Bossie, Downing, Preston, Foley.

15 yeas 7 nays

Adopted.

(Senator Sanborn in the chair)

HB 102, prohibiting the removal of serial numbers from certain products.

Motion of ought to pass with amendment.

Amendment to HB 102

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

prohibiting the removal of serial numbers from certain products and changing the penalty classifications for theft.

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Penalties for Theft. Amend RSA 637:11, II (a) and III as inserted by 1971, 518:1 by striking out said subparagraph and paragraph and inserting in place thereof the following:

(a) the value of the property or services is more than \$500 but not more than \$1000, or

III. Theft constitutes a misdemeanor if the value of the property or services does not exceed \$500.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. BOSSIE: Mr. President, as you recall the last time, the committee amendment dealt with the question of raising the value of property to be determined as a felony as opposed to a misdemeanor. Thanks to the Manchester Union Leader and the Concord Monitor a great amount of press was given to this amendment and I thank both of them for it, and as a result I've had a great number of calls from people, County Attorneys throughout the State who support this. I kind of asked if they would check with their authorities, and I understand Senator Smith will be having an amendment which he is going to be putting on to this bill and I have no problem with that. I ask you to vote for the committee amendment.

Amendment adopted.

Senator Smith moved a further amendment.

Amendment to HB 102

Amend RSA 637:7-a as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

637:7-a Possession of Property Without Serial Number.

I. No person shall knowingly remove, deface, alter, change, destroy, obliterate or mutilate, or cause to be removed, defaced, altered, changed, destroyed obliterated or mutilated the identifying number or numbers or any other identifying mark on any machine, mechanical or electrical device or any other property. Anyone doing so with the intent thereby to conceal the identity of the item or to defraud a manufacturer, seller or purchaser, or to hinder competition in the areas of sales and servicing, or to prevent the detection of a crime shall be guilty of a misdemeanor.

II. Any person who buys, receives, possesses, sells or disposes of any machine, mechanical or electrical device or any other property knowing that the identification number or numbers or any other identifying mark on the item have been removed, defaced, altered, changed, destroyed, obliterated or mutilated shall be guilty of a misdemeanor. However, if a person discovering that the identification number or numbers or any other identifying mark have been removed, defaced, altered, changed, destroyed, obliterated or mutilated shall report the same to the nearest police station, he shall not be

charged with violating this section. Further, said provisions do not apply to those persons who, on the effective date of this section, are lawfully in possession of that type of property described in paragraph I which does not have identifying numbers or marks or from which the identifying marks or numbers have been lost inadvertently.

III. The provisions of this section do not apply to those cases or instances where any of the changes or alterations enumerated in paragraph I have been customarily made or done in an established practice in the ordinary and regular conduct of business by the original manufacturer, or by his duly appointed direct representative, or under specific authorization from the original manufacturer.

IV. When property described in paragraph I comes into the custody of a law enforcement officer it shall be considered stolen or embezzled property, and prior to being disposed of shall have an identifying number engraved on it or embedded in it.

Sen. SMITH: Basically what this amendment does is to modernize the law a little bit. The original bill as it was amended now talks about various pieces of equipment that have serial numbers including a comptometer. Now this section was lifted or stolen from the California law which was written about 50 years ago and what the amendment does is to simplify the language of the bill by including all mechanical or electrical devices and adding to it any other property. Now there are many people who have antiques who put some identifying mark on them so that they will know if they are stolen, that they are their property. So this broadens the law as far as the various types of property are concerned. It also adds in the section of the amendment the word not only to sell or buy but also to knowingly remove and makes people in violation, guilty of a misdemeanor. Now why I have been interested in this piece of legislation is that I was asked to introduce a similar bill which is now lying dormant in the Senate Judiciary committee and I thought it was better to amend this bill and let that one go, because this one has already passed the House and it does pretty much the same thing. In the testimony it was stated by the state police that during the months of January and February of this year almost a million and a half dollars worth of property were reported stolen by either a burglary or some larceny. This does not include bank rob-

beries and it does not include automobile theft. This is just small items of property in those two months. Now every year during the winter there are many camps that are broken into in the north country, and throughout the state, and nobody knows about it until spring, so the number will undoubtedly increase. So here we have over a million and a half dollars worth of property stolen in a two month period. I think its time the legislature took some firm action in an attempt to stop this type of fever, and what this bill does in effect is to curtail the fencing of stolen property. If it becomes difficult to fence property, then it will not be as worthwhile to steal it, and I think this bill does a lot in regards to that and will make it easier for police to get the people who are doing the removing and defacing of serial numbers on all kinds of equipment. I hope the Senate will go along with this amendment.

Sen. BRADLEY: Senator Smith, the other day I expressed some concern of the broadness of the language and I was assured this was only applying to manufacturers serial numbers and manufacturers identifying numbers, now in your amendment the word manufacturers has been removed and I'm wondering if you haven't broadend this even more.

Sen. SMITH: Yes, we have broadened it as far as items. One of the big items that are stolen today are household goods which people are being encouraged to put some kind of identifying number on, particularly in the area of antiques. There's a big market indicated in theft of antiques throughout the state. As a matter of fact the law office only a block from here was cleaned out several years ago of its grandfather clock which had been in the family for years and years and years and during the middle of the night on Centre Street a truck drove up and unloaded the building. I think its time that people took cognizance, put identifying numbers on, so that they would be less marketable. You can't remove an identifying mark but I don't think a name would be included under that and I don't think in the sale would be any problem. You would have a bill of sale or an agreement between us as to the sale. This is just in case of theft. If you look at section III, it says the provisions of this section does not apply to those cases where any changes or alterations in paragraph I have been customarily made or done in an established practice in the ordinary regular conduct of business by the original manufacturers duly appointed direct representative or under spe-

cific authorization from the original manufacturer.

Sen. BROWN: I agree with the bill. We have three lakes in my town and we have a lot of summer property and its a continual thing, day in day out they are being burgularized and I'm all for trying to curtail this. What I am concerned about here is if my wife and I should buy an appliance of some kind that the serial number had been defaced and it was traced back that we bought it, are we liable? Are we in trouble because it says any person who buys, receives or possess if we unknowingly bought this without serial numbers on it?

Sen. SMITH: I don't think so because it says here, however, if a person discovering that the identification number or any other identifying numbers have been removed, defaced or altered he shall not be charged, should report the same to the nearest police station, he shall not be charged with violating this statute. Said provisions do not apply to those persons who are lawfully in possession of that type of property.

Sen. BROWN: What if my wife and I never notice this, never catch it and don't report it because we never knew it was there?

Sen. SMITH: I don't think this would be a problem if it was innocently discovered. If your household were full of items of that type thats another story but if its only one item, I don't think there is any problem.

Amendment adopted. Ordered to third reading.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in honor of the birthday of Thomas Jefferson until Thursday, April 21, at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 188, legalizing a regular meeting of the Monadnock regional school district.

HB 98, relative to an agency's readoption of edited rules and relative to notice requirements in the rule adoption procedure.

HB 215, permitting the posting of "for sale" signs in mobile home parks.

HB 68, relative to administrative functions of the fish and game department in declaring the opening and closing of seasons relative to fur-bearing animals.

HB 360, relative to the training of hunting dogs.

SB 104, relative to the stocking of fish by the fish and game department.

HB 324, relative to the taking of bobcat and fisher.

SB 142, amending the definition of moped in the motor vehicle laws.

HB 102, prohibiting the removal of serial numbers from certain products and changing the penalty classifications for theft.

Adopted.

Senator Bergeron moved to adjourn at 4:55 p.m.

Adopted.

Thursday, April 21

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, despite the tug of war which oftentimes takes place among us as we deliberate over some points of legislation; may we at all times seek that avenue of choice, which is the best for all the people, not just a certain few.

May the days ahead, through thoughtful planning with Thy

help, give us the insight to overcome the monetary problems which face us.

Refresh our minds and bodies over this weekend—we beseech thee, O Lord.

Amen

Senator Saggiotes led the Pledge of Allegiance.

HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 659, 287, 349, 465, 868, 713, 754, 760, 316, 353, 398, 161, 667, 796, 382, shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 659, requiring a minimum of 2 years residency before applying for free hunting or fishing license, or both. To Recreation.

HB 287, relative to defining limited access highways in regulating OHRVs. To Transportation.

HB 349, eliminating an obsolete term in the statutes regarding motor vehicles. To Transportation.

HB 465, redefining the term "emergency vehicles" in the motor vehicle laws. To Transportation.

HB 868, relative to bilingual education. To Education.

HB 713, amending the title of RSA 126. To Executive Departments.

HB 754, granting authority to the commissioner of health and welfare to appoint acting directors of the divisions of the department. To Executive Departments.

HB 760, authorizing the trustees of the New Hampshire retirement system to delegate the power to make investment decisions. To Executive Departments.

HB 316, relative to the exemption period for subdivision plot approval. To Executive Departments.

HB 353, changing the town charter of Hanover to make sewer rentals the only method of payment for sewage disposal expense. To Environment.

HB 398, imposing fines on zoning violators. To Environment.

HB 161, permitting licensees to promote the sale of alcoholic beverages at reduced prices. To Administrative Affairs.

HB 667, regulating recreational campgrounds. To Recreation.

HB 796, establishing an approved absence program in houses of correction. To Judiciary.

HB 382, relative to the jurisdiction of district courts in criminal matters. To Judiciary.

HOUSE REFUSES TO CONCUR

SB 95, relative to the taking of yellow perch and white perch for commercial sale.

SB 60, extending the deer season for muzzle-loaders under certain conditions.

ENROLLED BILLS AMENDMENTS

HB 60, relating to registration and examination fees for professional engineers.

Enrolled Amendment to HB 60

Amend section 3 of the bill by striking out lines 3, 4, and 5 and inserting in place thereof the following:

thereof the following (\$25) so that said paragraph as amended shall read as follows:

Sen. Lamontagne for the committee

Adopted.

HB 238, relative to the investment powers of savings banks.

Enrolled Amendment to HB 238

Amend the bill by striking out lines 3 through 6 of section 2 and inserting in place thereof the following:

in place thereof the following (40) so that said paragraph as amended shall read as follows:

Sen. Lamontagne for the committee

Adopted.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 189-199 and 201-209 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 189, establishing a coastal resources management program and making an appropriation therefor. (Monier of Dist. 9; Hancock of Dist. 15—To Executive Departments, Municipal and County Government and Environment)

SB 190, relative to the registration of lobbyists. (Lamontagne of Dist. 1—To Administrative Affairs)

SB 191, relative to vested rights and vested deferred retirement benefits under the New Hampshire retirement system and making an appropriation therefor. (Hancock of Dist. 15—To Finance)

SB 192, relative to service retirement benefits under the New Hampshire retirement system and making an appropriation therefor. (Hancock of Dist. 15—To Finance)

SB 193, permitting public service as an alternative sentence for conviction of certain crimes. (Bradley of Dist. 5—To Judiciary)

SB 194, to permit the state to accept the retrocession of jurisdiction in and over the Veterans Administration hospital in Manchester, New Hampshire. (Healy of Dist. 16—To Interstate Cooperation)

SB 195, defining and restricting the meaning of “owners” as used in zoning changes. (Sanborn of Dist. 17; Rep. Benton of Rockingham Dist. 2; Rep. Wilson of Rockingham Dist. 2; Rep. Davis of Rockingham Dist. 2—To Executive Departments, Municipal and County Government)

SB 196, repealing the requirement that prescription drugs be kept in their original container. (Bradley of Dist. 5—To Public Institutions)

SB 197, permitting a city or town to charge fees for commercial waste. (Brown of Dist. 19; Rep. Felch of Rockingham Dist. 11—To Executive Departments, Municipal and County Government)

SB 198, restricting boating on Pow Wow River in Kingston. (Brown of Dist. 19—To Recreation and Development)

SB 199, relative to failing to obey inspection requirements. (Sanborn of Dist. 17; Rep. Chandler, Jr. of Merrimack Dist. 3—To Judiciary)

SB 201, relative to the special license for a passenger vessel operating on state waters. (Sanborn of Dist. 17; Rep. Wiggins of Sullivan Dist. 8—To Transportation)

SB 202, relative to appropriations for the rehabilitation of the memorial bridge in Portsmouth. (Foley of Dist. 24—To Finance)

SB 203, relative to the employment of attorneys to assist the Hillsborough county attorney. (Bossie of Dist. 20; Healy of Dist. 16; Provost of Dist. 18; McLaughlin of Dist. 13; Sanborn of Dist. 17; Rock of Dist. 12; Monier of Dist. 9—To Judiciary)

SB 204, concerning the power of Lebanon College to grant degrees. (Bradley of Dist. 5—To Education)

SB 205, exempting certain motor vehicles and building equipment from public highway weight, height and width limitations. (Smith of Dist. 3—To Transportation)

SB 206, relative to the salary of an unclassified employee as it relates to the salary of a subordinate classified or unclassified employee. (Smith of Dist. 3—To Finance)

SB 207, relative to foreclosure sales. (Bossie of Dist. 20; Bradley of Dist. 5; Rep. Currier of Hillsborough Dist. 15—To Judiciary)

SB 208, relative to prepaid legal insurance. (Bossie of Dist. 20; Foley of Dist. 24—To Energy and Consumer Affairs)

SB 209, relative to the publication of tax sale notices. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

ENROLLED BILLS REPORT

HB 1, relative to the fee schedule of the recording officers.

HB 101, enabling towns to join together for the purpose of watershed management.

HB 168, prohibiting the erection of advertising devices beyond 660 feet from interstate or federal aid primary system rights of way.

HB 255, relative to the registration of aircraft or air carriers that are "home based" in New Hampshire.

HB 277, legalizing the Gilmore Pond dam in Jaffrey.

HB 338, relative to fiscal year taxpayers.

HB 362, authorizing the use of highway funds for the functional replacement of land and improvements required for highway purposes.

HB 363, relative to the notices required for the layout of Class I and II highways.

HB 375, relative to the merger of the American College of Life Underwriters with the American College.

HB 220, relative to state bridge and town bridge aid.

SB 41, relative to the deposit of state funds in approved banks.

SB 68, relative to notice filing in registries of deeds to show power of trustee to convey real estate.

Senator Lamontagne for the committee.

Senator Trowbridge spoke under rule No. 44.

INTRODUCTION OF SCR 5

First and Second Reading and Referral

SCR 5, educating the state board of education relative to the constitution of New Hampshire. To Rules.

SUSPENSION OF RULES

Senator Rock moved to suspend the rules of the senate so far as to allow a public hearing on SCR 5 on Tuesday, April 26 at 10:00 a.m.

Adopted.

COMMITTEE REPORTS

SB 155, requiring all mobile telephone service companies and radio paging service companies doing business in the state to be regulated by the public utilities commission. Ought to pass. Senator Bossie for the committee.

Senator Bossie moved that **SB 155** be made a special order for Tuesday, April 26, at 2:01 p.m.

Sen. BOSSIE: Mr. President the purpose is to allow time to consider an amendment that was brought up after the time of the hearing which is agreeable to all parties and we ask the Senate to concur with it and we will bring it up on Tuesday.

Adopted.

SB 147, relative to posting a bond or certification of assets by manufacturers, importers or distributors of motor vehicles to insure warranties. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President this is a bill by Senator Blaisdell and two representatives or three representatives and it has been proposed by the office of Attorney General. Basically, under the present law if a manufacturer, importer or distributor of passenger automobiles is going to sell them in the state, they are required to be certified with the attorney generals office that they have assests of not less than fifty thousand dollars to satisfy any judgments against them and if they don't do it, its a felony, class B felony. It would be kind of silly to indict General Motors for not posting this certification for any violation. So what this would do is provide for a corporate surety bond which is agreeable to the State of New Hampshire. It sounds like a fair bill and this has been the system in New Hampshire. Its just a question of what form the fifty thousand dollars would be. This is no problem for corporations who manufacture automobiles. No one appeared in opposition to this bill.

Adopted. Ordered to third reading.

SB 134, relative to reforestation of land. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: Mr. President members of the Senate if you ever had constituents who've asked you "don't you pass to many bills?", why don't you repeal a few, this is the bill you want to tell them about because believe it or not all it does is cut out large segments from RSA 221 and what's left in the bill is just as it now is in the law. The bill is the result of the study committee on forestry and was presented by Senator Pouslen and Mr. Natti testified. I was so surprised that all it did was cut a whole lot out that I had to ask him twice to be sure nothing had been added.

Adopted. Ordered to third reading.

SB 135, relative to public forest lands. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: Mr. President this bill is also the result of the joint legislative study committee that reviewed our current forest policies and recommended action review and study. This is also part of the legislative package of five bills. This is the second of the five. This bill recommends certain revisions of RSA 219 which pertains to the purchase management and other matters dealing with public forest lands and if everyone has their **SB 135** I can go over the different instructions and tell you some of the small changes in the beginning of the bill. The department, it says 219:4, the department must protect lands under jurisdiction from all damaging agents and they've added the words "forest pests" to damaging agents. This is in section 219:4 and 219:5. Then 219:7 under the criminal code is a fine of \$100 classes the offender as a misdemeanor and so this changes in conformity with the criminal code. The next section is 219:12 where it says all departmental revenues are now deposited in the state's general fund. Previously there was a section which said there was a forest improvement and recreational fund but where we don't have that anymore and everything is put into the general fund the law is changed to use this. In 219:14 as noted all departmental revenue are in the general fund and therefore the keeping of revenues from sale

of state owned land is not in practice. However, under timber sales and other revenue from such federal lands under department jurisdiction blackwater flood control area, Franklin Falls flood control and other similar federal areas there is an agreement and some of this money is kept separate for the use in the upkeeping of these federal funds and for the taking down of the timber and soforth. The major recommended change is the retention of funds which may be derived from the sales of state land. There are a few small parcels of state land which could possibly be sold and these have no application to the current situation or in any foreseeable future. These are the changes that are recommended in **SB 135**. Mr. Natti came in and spoke to us about this bill that was recommended by the department, he is the director of the Division of Forest and Lands and recommend its passage.

Adopted. Ordered to third reading.

HB 565, providing for payment of a claim to Barbara Cyr and making an appropriation therefor. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: Mr. President, members of the Senate this is the claim that Senator Trowbridge meant when we discussed **SB 4**. This is a strange case where this lady, Barbara Cyr, an employee at the Laconia State School was required to wear a uniform and the uniform was torn and destroyed by one of the inmates up there and the lady had to get a new uniform. The total cost as you may know was \$20 and I believe there are federal regulations and soforth that any person that is required to wear a uniform the employer is supposed to provide the uniforms or give them a compensation for some. For some unknown reason there seems to be a mix-up at the Laconia School and the only way that Mrs. Cyr could get her payment through this and it cost us from \$500 to \$700 to get a bill in so that she could get \$20 and **SB 4** could very neatly have taken care of it.

Adopted. Ordered to third reading.

SB 161, making a supplemental appropriation to the department of administration and control. Ought to pass. Senator Saggiotes for the committee.

Sen. SAGGIOTES: Mr. President HB 161 calls for an appropriation of \$12,000 for the current expense account relative to the Morton building. This was introduced at the request of the comptroller's office who indicated that they were fast running out of current expense money due to increase in costs of utilities and an additional expense of boiler repairs and that is the reason for the \$12,000 request.

Adopted. Ordered to third reading.

SB 175, providing a penalty for purposely or knowingly covering a fire hydrant with snow or other debris. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: **SB 175** directs a problem that has come up very recently in one instance in the city of Nashua and this is when a fire hydrant has been plowed out and made accessible if someone else comes along and covers it up again making it inaccessible it shall now be a misdemeanor and there will be a penalty involved.

Sen. LAMONTAGNE: Senator, so in other words if the public works department plows the street and covers the hydrant they are not going to be involved, its in case if somebody else is that right?

Sen. KEENEY: For the purpose of this section, person includes the agents of the state or any political subdivision so they would be involved.

Sen. McLAUGHLIN: Yes and no senator, its only when a person deliberately does it when the regular plows go by, no problem whatsoever but if the area is plowed out and the hydrant is plowed out and somebody comes back and deliberately covers it in that would be a problem at that time.

Adopted. Ordered to third reading.

SCR 4, to petition Congress to call a convention to propose an amendment to the United States Constitution to require a balanced federal budget, except in a national emergency. Ought to pass. Senator Rock for the Committee.

Sen. ROCK: I might call the attention to the members of the honorable Senate that this may be one of the few times this session you will see as co-sponsors of a bill, Senator Monier

and Senator Trowbridge. I might further add that we have on letterhead from the office of the governor the governor's full endorsement of this resolution which puts Governor Thomson and Senator Trowbridge together for one of the few times. With that kind of unilateral backing the resolution calls for an annual federal budget that would be nondeficit in its spending, knowledgeable planning, fiscal prudence and plain good sense require that the budget reflect all federal spending and be in ballance says SCR 4. If passed by the Senate the legislature of the State of New Hampshire would send this pursuant to article five of the constitution to the Congress of the United State asking it to call for a convention for the purpose of proposing an amendment to the constitution to effect that in the absense of an emergency the total of all federal appropriations made by congress in any fiscal year may not exceed the total of all estimated revenues for that fiscal year. Kind of good fiscal common sense we exercise in New Hampshire. The committee urges the adoption of the resolution.

Sen. BOSSIE: Senator is it not true that if we should pass this resolution and if congress does call a constitutional convention that they cannot limit the subject matter which will be considered at that convention?

Sen. ROCK: It would be exactly the same Senator if the Governor in the State of New Hampshire called a one day special session it might well last beyond the one day.

Sen. BOSSIE: Mr. President, I concur with the idea as proposed by SCR 4 with regards to balancing the budget but I'm forced to vote against the proposal by virtually the request for a constitutional convention. As the good senators discussed, this is opening a wide open barrel that could last for years and none has ever taken place and I really wouldn't want to see one take place. I think this is a very dangerous thing and I would request that the people who favor this proposal that the congress propose a constitutional amendment let it pass congress and then come back to the states for ratification, and that's the proper way for a thing like this. That's the problem with a lot of good ideas. If you go the wrong route your going to get beat.

Sen. HEALY: My reasons for opposing SCR 4 are the same as those stated by Senator Bossie.

Sen. TROWBRIDGE: Senator Rock, wouldn't you think this established once and for all my conservative credentials?

Sen. ROCK: I'd like to think about that answer.

Adopted.

(Senators Jacobson, Bradley, Bossie and Healy recorded in opposition.)

CACR 5, RELATING TO: Granting of Pensions by the Legislature.

PROVIDING THAT: The Requirements That Pensions be Granted for not Longer than One-Year at a Time be Repealed. Ought to pass with amendment. Senator Smith for the committee.

Amendment to CACR 5

Amend Article 36 as inserted by paragraph I of the resolution by striking out same and inserting in place thereof the following:

[Art.] 36th. [Pensions.] Economy being a most essential virtue in all states, pensions ought to be granted in consideration for actual services with great caution by the legislature, and never for more than 2 years at a time.

Amend the resolution by striking out paragraph IV and inserting in place thereof the following:

IV. Resolved, That the sense of the qualified voters shall be taken by ballot upon the following question submitted to them by the General Court: Are you in favor of amending the Constitution to provide that pensions may not be granted for more than 2 years at a time?

Sen. SMITH: Mr. President the amendment is found on page 8 of today's calendar. This is the resolution that has been placed to the voters before to help on the retirement of elderly state employees who got in before the regular retirement system so that they could be paid over a period of two years rather than having one sum one year and having none the next year, or reduced amount next year. What the amendment does is instead of giving the legislature the power to grant unlimited, that is in time pensions, it limits it to not more than two years. This takes care of the teachers problem so that the payment would be even. The amendment was proposed at the hearing and the committee felt that it was a logical and much

safer question to place before the voters. I hope the Senate will go along with the amendment.

Sen. ROCK: Mr. President, I concur wholeheartedly with the amendment and I think it proves the worth of the real reasoning behind public hearings. The 400 members of the House on several occasions and the esteemed members of the Senate on esteemed occasions and even the constitutional convention has wrestled with the problem of how to explain our difficulty to the electorate on what we face with the constitutional restriction in a legislature that meets on a biennial basis and dealing with pension and the meager cost of increases we give our fine state employees who are retired must by constitution be paid in a one year period and what happens is the retiree receives the increase and begins to live on that level as all of us want to do on our conservative legislative salaries, and find they quickly disappear in the second year of the biennium. It is my firm belief that the electorate has seen, in a way, the question has been put before them that we are trying to put over some kind of a devious move to raise pensions out of sight. That, of course, is not what we are attempting to do and Mr. Lester Billings a former state employee came in with a little postcard about this big and he said I've thought about this for many months and he said why don't you write it this way and of course the amendment had always been to remove the restriction of granting pensions one year at a time and everybody became very apprehensive of that. Mr. Billings said why don't you say never more than two years at a time and I think that negative type amendment is going to let the people understand that we are not trying to do it forever and ever but no longer than two years and I believe this will be the key that will turn the lock and it will pass.

Sen. LAMONTAGNE: Senator I know in the bill it says the legislature but what about the cities and towns that do have one year pensions, will this make any changes with them too or will they have to make individual changes? For instance, the City of Berlin grants pensions one year at a time.

Sen. ROCK: I think the answer Senator, is you meet every year and you are able to deal with it every year, we don't meet every year we meet only every other year so this wouldn't require you to make any changes, it just allows us to deal with it over a biennium which is what we are trying to do.

Sen. HEALY: It says here concurrent resolution proposed

constitution amendment relating to granting of pensions by the legislature, does that include judges?

Sen. SMITH: No this would not include the judges. This is basically for people who have been retired a long time whom we supplement their current retirement.

Sen. HEALY: Your telling me that this refers to the working people?

Sen. SMITH: I would say state employees.

Sen. TROWBRIDGE: I fully understand why the committee did what it did and I'm not saying anything against it but I do want to go on record that the problem is beyond whether we pay in two years or one year. The constitutional provision which went in just after the revolution says that you couldn't pay anybody for past services more than you set up at that time. Hence, a teacher who retired in 1950 got a pension lets say for \$98 a month and until we do something we are going to have to pay her \$98 a month regardless of inflation. Right now, if we try to raise more money to supplement her pension, we can only pay it in one year even though we raise it over two years. The actual payment check has to go out within one calendar year to comply with the constitution. This amendment would mean that you could send two checks over two years; but that is not the problem. The problem is that there is no way to build into the system a prefunding mechanism whereby the system can generate retirement benefits. Let's in 1980 a person retires and he comes out with \$200 a pension per month or whatever it might be and then has a built in increment that would go on an inflation basis. You can't do that under what we are doing here. As a result it means that every two years a special bill has to come in for these people and have to raise the million five or million eight and it becomes a football in the budget process. What the teachers and retirees are looking for was a means whereby we could refund some sort of cost of living increase to the system. This does not do that and I just want to be sure everybody knows that it is not the answer to the inflation problem.

Sen. LAMONTAGNE: Senator isn't it so that now those who do rather the legislature grants them a pension they get it once a year, they get one check?

Sen. TROWBRIDGE: What happens is that a state employee retires, since the retirement benefit was set up before he retired there is no problem with paying him once a year on his regular pension because that complies with the constitu-

tion. Its only granting more to the pension that the constitution prohibits. When we come with a supplemental benefit, which he did not earn through, the system then you can only pay that in one calendar year. You can attribute it to five years or two years whatever but you can only make the payment in one year. So it gets clumsy. This would take care of this clumsiness of the one year versus the two years. It does not take care of the fact that you have to come back every two years and no one can count on it.

Sen. LAMONTAGNE: Now what happens to the special pensions that have been granted by the legislature possibly of a disability without any insurance?

Sen. TROWBRIDGE: That again is done before they retire. Its done not for past service but for present service so those are all right.

Sen. LAMONTAGNE: They can only get their check in one fiscal year, not the second, right?

Sen. TROWBRIDGE: That depends on whether they got a disability that was granted after they retired. They retire, they have a heart attack after they retire, its determined by the system that it was attributable to their service when they were on the force, however, the pension wasn't granted as of the day that they left hence they fall into this trap.

Sen. LAMONTAGNE: Now Senator, these people that are only getting one check one year and then the following year they do not get a check, are you familiar with some of them being confused and wondering why they are not getting a check on that second year?

Sen. TROWBRIDGE: The retirement board sends it out to all these people who are retirees saying you're getting paid for two years in one lump sum. Thats how we do it. With all of the checks going out a notice goes with them in capital letters saying: this is your two year pension supplement and if they choose to ignore it, they may be confused but its not the fault of the retirement board. They do the best they can to communicate.

Sen. LAMONTAGNE: Senator, assuming that we adopt this bill, does this mean that these people will be getting a check on the first year and the second fiscal year?

Sen. TROWBRIDGE: Yes. They would be getting separate checks. What they would not be getting is that any assurance that two years out that it would be repeated.

Sen. MONIER: Senator, the state retirement system is a required system, is it not?

Sen. TROWBRIDGE: No.

Sen. MONIER: All state employees must belong to it?

Sen. TROWBRIDGE: No. There are quite a number who do not.

Sen. MONIER: Is it an individual decision or by class?

Sen. TROWBRIDGE: No, individual. Anyone can decline to go in. There is no question that the managers and the department of personnel do everything they can to encourage them to go in because they have found over the years, Senator Monier, that a young person will join and we got one right there of Senator Provost, a perfectly lovely lady who said well I'm not going to be in the system that long and didn't go in and then they find 10 years later they say, gee I want to get in the retirement system so there is a great deal of pressure by department personnel to get everybody in because they know sooner or later they will want to be in and then they will have to buy their way back in and it gets very expensive and I think that's proper. I think it's good advice actually.

Sen. MONIER: I wonder if the Senator is aware that they are being told that they are required to join? I've had several inquiries with respect to that, that's why I wanted to ask the question.

Sen. TROWBRIDGE: I hope I'm not giving misinformation. I'm pretty sure I'm right. . . . certainly they were not required until 1967, that we know. I believe though that you can still waive your rights, I believe there is a way but you have to do a lot to waive it because of this problem. The other problem is that if you are a state employee you cannot go down to the bank and form an IRA account because one is available to you so that they are pretty well closed off so in a way your required even if technically you can get out. I think there is a way you can get out, but it's not easy.

Amendment adopted.

Division vote: 23 senators voted yea. 0 senators voted nay.
CACR 5 ordered to third reading.

VACATE

Senator Poulsen moved that **SB 208** be vacated from the

committee on Energy and Consumer Affairs to the committee on Insurance.

Adopted.

Senator Healy spoke under rule No. 44.

SB 136, relative to the sale of land subject to the current use tax. Ought to pass with amendment. Senator Bradley for the committee.

Amendment to **SB 136**

Amend the title of the bill by striking out same and inserting in place thereof the following:

relative to the change of use of land subject to the current use tax.

Amend the amending clause of section 2 of the bill by striking out same and inserting in place thereof the following:

2 When Land Use Change Tax Due. Amend RSA 79-A:7, II (supp) as inserted by 1973, 372:1 as amended by striking out said paragraph and inserting in place thereof the following:

Sen. BRADLEY: Mr. President, the amendment is printed on page 8 of today's calendar and it's very simple and nonsubstantive, all it does actually is change the words of a couple of titles used in the bill. It doesn't do anything to the actual text of the bill. The original title was felt to be misleading in that it referred to the sale of the land as being the taxable event, which it is not. The taxable event in this area is when the use is changed. Its a change of use tax and so all we did is conform All the amendment does is conform the title to the text of the bill.

Sen. BRADLEY: To speak to the bill itself Mr. President, there are several relatively small items requested by the advisory board on the current use. The first provision as stated in the analysis simply says, that the tax will be due when the use is changed rather than on April 1 following the change in use. The powers of the board are also rearranged to make it clearer that the board has power to set up the criteria for land use and

there's, apparently, a provision which says that the assessing officials do not have to send in new reports each year to the registry of deeds when there has been no change.

Amendment adopted. Ordered to third reading.

HB 423, relative to penalties for filing a late return under the business profits tax. Inexpedient to legislate. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, under the present law if you fail to file a business profits tax return when required or as required there is a \$50 penalty even though you may not have any tax due. This bill, if passed, would change that provision and say that if there is no tax due it doesn't matter whether or not you were late in filing or failed to file. You wouldn't be charged a penalty. The sponsors motives have a certain amount of logic to them, however, the basic fact seems to be, as testified to us by the revenue administration and by others that, if you don't have this penalty in the law you simply are not going to get the returns and you're not going to be able to tell whether or not tax is due and from an administrative standpoint it is necessary to have the penalty on the law which for \$50 does not seem to be all that onerous and therefor, its our recommendation that the bill ought to be inexpedient.

Senator Rock moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. ROCK: I'd like to call the attention of the Senate to the fact that this bill passed quite handily in the house coming out of the House Ways and Means Committee with an 18 to 0 recommendation. The only thing this bill does is to put the tax law of New Hampshire in conformity with the federal tax laws. I can remember quite a well a conference I had with Commissioner Price during the 1975 session when Commissioner Price was going to pass a very innocuous bill that would make the penalties in the business profits tax area double the federal tax penalty. If the federal tax penalty was 5% per month the business profits tax would have been 10% per month. This and other exorbitant penalties that Mr. Price was going to impose on the people of New Hampshire, to me, were uncon-

cionable. I think we have another case here of Price and Company trying to run the entire State of New Hampshire to their liking, to their way of thinking and I doubt that there were very many people other than Mr. Price and the hired hands from that office coming in to oppose HB 423. I'm sure each of you in your districts still have people that do not understand the business profits tax and by any stretch of the imagination these people are not crooks, they are not trying to ripoff the State of New Hampshire, they are trying to be good citizens, understanding new tax laws that we are foisting on them and the bill says if you don't owe any business profits tax you're not going to be penalized for not filing it on time. What the penalty is now is \$50 or 25% of the total tax due, if you don't owe anything 25% of nothing is nothing. And if you don't owe anything \$50 seems to be a very high price to pay. I think this simple law would merely say that we are in partnership with the good people of the State of New Hampshire in a tax that is growing year by year and will soon, I'm sure, overtake the liquor income which is a high source of income. As the business profits tax grow and people understand it more thoroughly they are complying but we seem to have people czars in this state run the state to their own liking and they are opposed to a very simple bill that merely says that we in the sovereign State of New Hampshire are not going to be any more injurious to our citizens as is the internal revenue service. I always think of the man knocking on the door saying I'm from the internal revenue service and I'm here to help you. I think this is a good bill and I'd like to see it passed.

Sen. BLAISDELL: Senator Rock would you believe that I have a constituent of mine that sold his business two years ago and got fined \$50 each year for the last two years for not filing?

Sen. ROCK: For filing? And he didn't owe any tax?

Sen. BLAISDELL: Right.

Sen. SANBORN: Senator do I follow you correctly? If we pass this no penalty of any kind, this is only for people that do not have a tax?

Sen. ROCK: That's correct. There is a section before this Senator that said if you owe a tax and fail to pay it on time, or if you owe a tax and fail to file at all there are serious penalties and they will and should be imposed. This section merely inserted as a new section says notwithstanding 77812 which is

the one that we are talking about, you don't owe any, your not going to be penalized for not filing it on time.

Sen. SANBORN: Senator, am I mistaken but wasn't there a case three or four years ago where some small business people had a place in their own home probably making altogether just expenses and a little bit more that were being pulled in for not paying this penalty and so forth?

Sen. ROCK: I think yes. What that referred to was, there used to be no area where in the Tax Revenue Administration Department who grant waivers and people who made less than the required amount to even have to file a tax at that time were being heavily penalized because the law did not provide them the area for the waiving penalty. Now I understand someone may say this, well if you have the right to waive it and you don't owe a tax you fail to file on time they can always pay the \$50 and they might waive the \$50 and they might just wave goodbye when they are walking away with the \$50.

Sen. BRADLEY: Senator Rock you, I'm sure, understand and agree with me that there are many people who are required to file a tax return when they have completed the return properly show no tax due. You would agree with me that is the fact?

Sen. ROCK: I think your probably right Senator would you rephrase that?

Sen. BRADLEY: As the law was written many people are required to file a tax return who don't owe a tax. If there is no penalty for violating, what is the incentive to those people in the return and how does the business profits tax division know they are out there?

Sen. ROCK: The answer to that is very clear Senator and I think one of the most forceful weapons that the tax revenue administration has, if I fill out my return and I say, I don't owe a tax and they audited me and found at some future date that I did owe a tax no am I subject to the \$50 fine, I'm subject to all of the interest penalties and I could be subject to a 50% of the whole tax penalty for fraudulently filing a return that didn't show I owed a tax when I did. So they have three ways to get at them. One, they can audit the return. Two, they can penalize it for not filing it on time, because in fact he did owe a tax when they audited it and if they can prove that he fraudulently did file it they can give him the other penalties that are involved.

Sen. BRADLEY: But if he hasn't filed a return, how is the

business profits tax going to know he is out there so that they can audit?

Sen. ROCK: Well, I have no fear that they will find him, Senator.

Sen. BRADLEY: Don't you agree that there is a difference between the federal law and the state laws in a sense that the federal government has a lot more waive and a more complete system for finding out who is earning income throughout the country than the State of New Hampshire particularly where the person is an out of state company that might be earning income in New Hampshire and subject to the New Hampshire business profits tax. Don't you think there is quite a difference between the two systems?

Sen. ROCK: Thank god for it.

Sen. MONIER: Senator Rock I'm just a little confused by this because of several reasons. As I understand it you're saying that this ought to pass because it would allow people who do not owe a tax to not file a tax return, am I correct on that?

Sen. ROCK: No Senator it says that they file it late. The penalty is for late filing, not for not filing.

Sen. MONIER: Its says as I read it, withholding to no penalty of any kind or no late payment shall be imposed for failure to file a return at the time required if the taxpayer does not owe to the state any business profits tax. Am I to assume then that what you're saying is that if I decide later that I have a payment due that this protection from filing it late?

Sen. ROCK: Well, Senator if you would ask for a one minute recess we can get out the statute and read it. My understanding of this is that notwithstanding 77812, which is the penalty paragraph, no penalty of any kind or no late payment charge shall be imposed for failure to file a return at the time required by the chapter, at the time required, its the timeliness we are talking about if you don't owe a tax for the period. If its late and you don't owe a tax, you will not be penalized for not filing in "on time" those three words "at the time" are the key words in the chapter.

Sen. MONIER: Then I don't understand it because if I don't owe a tax I wouldn't file at any time.

Sen. ROCK: Yes you would Senator, you would have to file a return eventually. If you're in business you have to file a return eventually.

Sen. MONIER: Then what we are saying is, if I do not owe a tax it is alright to file it late without a penalty?

Sen. ROCK: That is correct. That's all this bill does.

Sen. MONIER: How late could that be? What I'm trying to say to you is that you use the IRS and I use the IRS also but I know if I don't file an IRS they have another document which later on the computer will cross check and spit out Monier did not file one and then I am due for penalty.

Sen. ROCK: Right and the longer you wait for that return the longer you're subject to a 5% per month penalty subject to the audit that you will eventually get and most assuredly get, if you file it late.

Sen. MONIER: But also under the federal law if I do not owe anything I still must file.

Sen. ROCK: Correct and this does not exclude you from filing either.

Sen. MONIER: The only answer is that it doesn't set any time limits on it either and I just wonder why that's a good bill? If I really did not owe anything and I don't want to file and there is nothing there to spit back to me to say to the business profits that I should have filed. I could wait indefinitely and unless somebody else, tracks me down I've gotten away with it.

Sen. LAMONTAGNE: Senator do I understand this correctly that if I don't file my return that the department can send me a letter requesting for me to make my return?

Sen. ROCK: That is correct Senator.

Sen. LAMONTAGNE: At the same time I would not have to pay a penalty because I did not make that report?

Sen. ROCK: You would have to pay a penalty if you didn't make the report and you owed a tax and you filed it late. If they wrote you a letter and said where is your return and you wrote back and said I forgot and here it is I don't owe anything and indeed you didn't owe anything, then you wouldn't be penalized for being late. If you were late and you owed it, they would not only collect the tax but they would collect an assessment of 5% per month interest to a total of 25% of the total tax due because you were late and you owed a tax.

Sen. LAMONTAGNE: If I was late, then I would have to comply to the law that is now on the books today is that correct?

Sen. ROCK: Correct.

Sen. LAMONTAGNE: This bill has nothing to do with the present statute that we have now with the exception of deleting any penalty for filing late which I owe no money?

Sen. ROCK: As I understand your question Senator thats correct.

Sen. DOWNING: Mr. President, I rise in opposition to the pending motion and favor the committee report. First of all I'd like the Senate to understand that its the policy for the department to forgive any fines or penalties levied against first offenders if in fact they communicate with the department and tell them I didn't understand it fully, I made a mistake, I don't think you ought to fine me. The policy is clearly been established if you recall a couple of years ago we had a conflict where the penalties were just being put on everybody and there was no administrative judgment exercise at all and we changed things then. And since then that has been the policy so that you don't need to worry about the first offender but we do need to worry about the chronic offender. Now you establish a department, you make the laws and the rules to develop revenue and they try to collect this revenue for you with as low a overhead as possible. They can't have investigators out tracking down everybody that comes into the State of New Hampshire all the time trying to find out if they understand the law, if they are complying with the law and soforth. Its bad enough now without encouraging it and encouraging chronic offenders to pass this bill as the present motion would have you do. It just encourages a chronic offender. The department is the final determiner whether you owe a tax or not, not you. You've got to get your report in there. If you don't owe any tax, you don't owe any tax. The report isn't that complex. The average person can file without any difficulty at all. Just file the report on time. Once you're fined by the department for not filing on time and once you establish communications with them and you find it has to be on time as I say for the first time the penalty is forgiven and thereafter I'm sure the citizens going to file his report on time. There is not going to be any problem but to say you don't have to do that if in their judgment they don't owe a tax I think is wrong and I think you're being counter productive. It ends up costing you more money. I urge you to defeat the present motion and support the committee report of inexpedient to legislate.

Sen. SANBORN: Senator Downing I hear what you say loud and clear except relative to the point that Senator Blaisdell made. Here he's got a constituent that's been out of the business for a couple of years but Mr. LaPlante down here

keeps on sending fines for \$50 each year for not filing, what do you do in a case like that?

Sen. DOWNING: Well Senator if he would communicate with Mr. Price and tell him he didn't earn over \$6,000 and doesn't have to file anything according to the law because he's exempt for filing at that point that would clear it up.

Sen. SANBORN: Senator I would assume and perhaps you may correct me, but I would assume that he had been notified but knowing how that department works down there I would have my doubts that they would bother to open the mail.

Sen. DOWNING: If that is a question, I would have to assume just the opposite they haven't been notified but the citizen is just irritated by the fact that he is getting this bill and instead of taking it up with them he's talking to people who are the ones that can't do anything about it. If he hasn't earned the \$6,000 he doesn't have to file, just write a note and thats the end of it.

Senator Rock moved that HB 423 be recommitted to the Ways and Means.

Sen. ROCK: I think the issue here at hand has been demonstrated Mr. President that we are being more astringent than the federal government and I do hear the questions that some of the Senators have asked that we might be able to go on for a longer period of time because there is no limitation on the lateness of return before a penalty is set. I'd like the committee to look once again at it and consider putting on something like a six month period and bring it back.

Sen. DOWNING: Mr. President I rise in opposition to the pending motion. The reason why these bills came out today with one day printing in the calendar is we are trying to expedite the work of the Senate. The committee was unanimous in its decision on this bill. I only say that if it is the will of the Senate to recommit it to the committee I can't promise that we can get this bill out again before our deadline. If the joint rules were adopted as they are proposed and as long as the Senates aware of that I don't want you to be surprised by anything by the actions of the Ways and Means Committee.

Sen. BOSSIE: Senator Rock would you consider amending your last motion to send it to the committee on Consumer Affairs?

Sen. ROCK: Senator, I think there are many committees that might be able to handle this kind of legislation.

Division vote. 14 senators voted yea. 9 senators voted nay.

Adopted.

HB 442, relative to the commission and tax on running and harness horse races. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President under the present law the commission on running horse races which is 18% and the commission on harness racing is 19%. This bill specifies the commission on win, place, and show of their mutual pools on running horse races is 18% and for all other mutual pools at running horse races shall be 25%. The commission on win, place and show par mutual pools on harness races is 19% and for all other paramutual pools at harness races it shall be 25%. What we are doing here, Mr. President is we are increasing the take from the better to a maximum level of 25% on both flat and harness racing on the exact wagering. Currently on thoroughbred racing the total take out is 18% with the track getting 10% and the state getting 8%. Just for the reaffirmation, none of the changes in the current legislation has anything to do with the win, place or show bet. There is no change there. Under the new proposal what we are going to have is an increase in the take to the track to fifteen percent from ten and to the state ten from eight. Presently under the harness racing situation the takeout is 19% with the track getting 13 1/2% with the state getting 5 1/2% this is on a sliding scale of handle increases. The track gets less and the state gets more. The bill proposes that the track now get 17% and the state 8 and as a point of comparison, if this present law was enacted and adopted and is figured on the same basis as the amounts wagered in 1976 the increase in the take would have been \$800,000 for the State of New Hampshire. The horsemen would wind up with some additional \$728,000, the track after taxes approximately \$400,000. Incidentally the horsemen get approximately 45% of whatever the track takes in. What we have to do here is consider what is going on in other states. Out take right now is the highest anyway. Other states by comparison are also in effect being asked to reduce

the amount of their take because the tracks are in so much trouble. For example in Rhode Island, the track people down there went to the legislature time and time again to appeal and plea. As a result, Naragansett and Lincoln Downs closed never to be opened again. What we are considering here is a bill which will raise revenue to the extent of approximately \$5,000 per day for the State of New Hampshire. For every day we prolong this measure before passage you can figure that on an average of what it's going to take, what it's going to cost the state, over a 53 day meet you are talking approximately \$260,000. I also foresee some figures on what it would mean to an agricultural fair in my district and with the passage of this bill the little Rochester fair would garnish approximately \$22,000 more in revenue with approximately \$18,000 going to purses. There are side effects to this legislation also that I think are worthy of mentioning. We could get really involved in this. Just to show you that you don't try to kill the goose that lays the golden egg but for example I'd just like to reiterate for the Senate what monies were expended last year. For example the State of New Hampshire commissions and break-age six million four hundred thousand dollars uncashed ticket money, one hundred thousand, license fees thirty five thousand dollars. The town of Salem, the real estate taxes four hundred seventy thousand, daily license fees seventy five thousand, fire department services thirty thousand, police department fifty five thousand. You have your jockys 91% of whom are New Hampshire residents 2.6 million dollars. They pay federal income tax. Purses paid to horsemen 4.47 million. These are the things we have to take into consideration when considering a bill the magnitude of HB 442 and the committee was unanimous in its agreement to recommend ought to pass.

HB 442, was referred to the committee on Finance.

Sen. DOWNING: Mr. Chairman, as chairman of the Ways and Means Committee I'm very very concerned with this bill in that we are losing four or five dollars a day in state revenue every day that it is delayed. Is there some concern by the chair or the finance committee with that portion that alludes to the budget on that department or can we handle this bill now?

The Chair will state that he is only in the position of attempting to follow the rules, rule #24 and would read for the

Senator that portion—of the amount so paid the state treasurer a sum equal to one quarter of one percent shall be expended for the promotion of agriculture in the state under the direction of the commissioner of agriculture.

Sen. DOWNING: Mr. President, does that change from what the present law is?

The Chair does not know that answer.

Sen. DOWNING: If that was part of the present law would there be any need to send it to finance?

I would presume that the figure would change and that the figures then would affect the total budgetary situation on the department of agriculture.

Sen. DOWNING: If the percentage and figures and facts were not going to change, Mr. President, would there be any need or would rule 24 apply?

The Chair will state that as long as the state does not have the figures at hand that his ruling will stand subject to the will of the Senate.

(Senator Monier in the chair.)

Sen. DOWNING: Senator, as chairman of the Senate Finance committee, which this important bill has been referred to, I wonder if you would, just for the edification of the rest of the Senate, advise them your agreement that you would report this bill out as soon as possible next week.

Sen. TROWBRIDGE: No question. We will try to do it and get a complete financial analysis of what it does all the way up and down and consider the financial impact it has on the state and we will do that as soon as possible.

Sen. DOWNING: That would mean next week, Senator? Is that what you're original statement was?

Sen. TROWBRIDGE: To make every effort especially if we are able to suspend the rules on a committee report coming in next Thursday.

Sen. Downing spoke under rule 44.

Sen. DOWNING: Mr. President I rise under rule #44 very reluctantly. I'm very disturbed about the handling of this bill. I was very reluctant to certainly challenge the chair, I think that is only done under the gravest of circumstances. I don't think that everything that is involved here has been discussed.

I think probably both the Senate and the State of New Hampshire would be better off had it been laid on the table and everybody knew what everybodys intention was. I'm disappointed but I recognize when I have enough votes to do anything different and I haven't got them now; but it doesn't make me any happier.

Senator Sanborn spoke under rule No. 44.

Sen. SANBORN: Mr. President, I'm a little bit interested in this bill because page 3 section 2 roman II near the bottom of the page you've got the words "of the amount so paid to the state treasurer as sum equal to one quarter of one percent shall be expanded for the promotion of agriculture in the state under the direction of the commissioner of agriculture" then it goes on to say one hundred and fifty thousand dollars will go to the sire stake program. Its that portion on the agricultural fairs that I'm most interested in and why I believe this should go to appropriations. A good many years ago I had the pleasure and privilege of serving as the President of the New Hampshire State Fair Association. At that time, the legislature had a member by the name of Lester Mitchell, Steve Smith and a few others may know him very well but, Mr. Mitchell watched out in the legislature for the interest of the agricultural fairs and it was during my term of office as President that the legislature at that time was looking closely at the amount that went to the agricultural fairs and speaking very seriously of cutting that amount. At that time, Lester Mitchell got through the legislature and signed into law the amount to go to agricultural fairs was one quarter of one percent at the state race track not to exceed a certain amount. I think that if anybody here bothered to check with the Department of Agriculture right this minute, they would find that the amount set aside for agricultural fairs still does not exceed that amount established by Lester Mitchell many years ago. However, the way this bill is written right now it eliminates entirely, not to exceed the amount and as far as the agricultural fairs are concerned. I'd be most happy because that would be more coming back to us to be dispensed out to agriculture and the promotion of agriculture. This is basically because the figure is still carried in the budget and if you want to look at the budget here on page 88 you will see grants to agricultural fairs and that figure stays the same for '76, '77, '78 and '79;

but that figure if this bill stays the way it is right now is going to go up, because in no way only a year or two after Les Mitchell got that through that one quarter of one percent would have exceeded the flat grant that Les had put into the law and so I'd be most happy to see it because that means agricultural fairs will get more money.

Sen. LAMONTAGNE: Senator the remarks that you just made before this Senate couldn't matter. The matter has already been ruled by the President of the Senate that its sent to finance committee but these differences now couldn't it go before the finance committee for the finance committee to straighten out those matters?

Sen. SANBORN: Certainly. Thats why I'm supporting the ruling of the Senate President.

Sen. LAMONTAGNE: I take you feel it shouldn't go to finance committee, that you had some objections.

Sen. SANBORN: No. I said I would be happy if the Senate wants to pass it in its present form because it would make more money for the agricultural fairs but the budget would have to be corrected because the two hundred twenty five thousand dollar grant for agricultural fairs would have to go up to three hundred fifty or four hundred thousand depending on the figures that have been given us today as the amount coming back to the state.

Sen. LAMONTAGNE: So in other words Senator you have no objections to this going over to the finance committee for further investigation?

Sen. SANBORN: None whatsoever.

Senator Fennelly spoke under rule No. 44.

Sen. FENNELLY: This is the second time in two terms that I have spoken under rule #44. One was pertaining to Marshall Cobleigh and on this one I'm going to speak on HB 442. I think that it is a disgrace to hold this type of bill to go to Finance. One, it did not go to House appropriation and I'm sure the Speaker knew agriculture was involved in it and here we are at the last moment, a bill which the state, the horsemen and the track are losing four thousand dollars a day, increase in purses for the horsemen across the board, the horsemen are in favor of it, the full committees report of ought to pass as is. Now lets bring out whats happening in the light of day. There

is some other interest in this bill. Now I was one of the supporters of the sire stakes program in the last session and I still support it; but it has nothing to do with this particular bill and it seems that there is an omen over the Senate pertaining that the sire stakes program is going to be done away with. It is not going to be done away with and I guarantee right now when this bill comes out of Senate Finance it will be amended and the agricultural part has nothing to do with it. Rochester fair falls under agricultural paramutual betting as Senator Bergeron said. Just for the passage of this bill will increase the Rochester fair association twenty two thousand dollars and \$18,000 in purses for the horsemen up there. Everyday that this bill is delayed it cost the average horseman four hundred dollars every race at Rockingham race track. I have never served on Senate Finance but I think I have a little common sense, its all here, the figures will not change, the total from thoroughbred racing in the last year was four million three hundred thirty-six thousand dollars. With this bill it would increase to the state three hundred and seventy thousand five hundred and sixty dollars. That comes to four million seven hundred and sixteen thousand dollars. In the area of the harness racing, last year the state received one million seven hundred and seven thousand six hundred and thirty-four dollars and will increase it by four hundred and twenty three thousand dollars with a total increase for the state of two million two hundred thirty one thousand. So lets be realistic and lets be very honest with ourselves here. The question of the agriculture has really nothing to do with this bill and as I stand here on this Senate floor I know that this bill some way some how will be amended in Senate Finance over to the House to die a long and agonizing death.

Senator Bradley spoke under rule No. 44.

SB 37, authorizing the acquisition of land for fish and wildlife areas and making an appropriation therefor. Inexpedient to legislate—Majority: Ought to pass with amendment—Minority. Senator Healy, Gardner, Lamontagne, Preston for the majority. Senator Hancock for the minority.

Motion of ought to pass with amendment.

Sen. HANCOCK: I think, attached to Senate Bill 37, you have a copy of the amendment. What the amendment does is say that insofar as possible federal funds should be used in conjunction with the two hundred thousand dollars which is being requested for fish and wildlife acquisition areas. I think we are all pretty well aware of the competition for land and the rapid development which is taking place in our state. Recreation and Development Committees in particular have been made aware of this through a number of bills which have been presented to us throughout the session and which have come to you. Fishing and and hunting and related outdoor recreational activities are going to get continuously greater use as our population grows and as our tourist industry increases. I think we are all again, well aware that recreation and outdoor activities provide the second greatest source of income to the State of New Hampshire. The Fish and Game Department has recognized the need for more land to do some rather specific things and I would ask you to keep in mind that \$200,000 is not a lot of money in today's land market. That is the reason that I asked for the amendment so that land and water conservation fund money which is 50% federal funds and Dingle Johnson of Pitman-Robertson funds which are 75% could be used in the acquisition of areas. Now specifically the Fish and Game commission is interested in acquiring wetland which all of us in conservation know helps store and conserve groundwater supplies. They are interested in acquiring nesting areas, public access to river areas. As we clean up our rivers which we are doing continuously and at great expense river land is going to become increasingly attractive to all sorts of recreational interests. At the present time, we have about 780 great ponds in the State of New Hampshire and they belong to the people and only about 246 of those have public access areas despite that fact. The fish and game department now owns somewhat less than 10,000 acres and I think, Mr. President member of the Senate, that if we might adopt this amendment and have the bill sent to finance so they could consider it in the tremendous responsibility they have for an expenditure of money rather than deciding the issue now it would be a commendable action to take and I do recommend to the members of the Senate the adoption of the amendment.

Sen. SANBORN: Senator Hancock I believe that you made a statement about the Fish and Game Department saying

they had so many acres of land, I didn't get the amount they said they had.

Sen. HANCOCK: 10,000.

Sen. SANBORN: I take it this is not all the wildlands, wetlands and so forth owned by the State of New Hampshire right now?

Sen. HANCOCK: No it is not. That is what the Fish and Game Department owns Senator. Its under their jurisdiction.

Sen. SANBORN: In other words Senator the entire sections of Deerfield and Candia that now lay in Bearbrook Park and are kept wild for hunting and fishing are not even considered by the Fish and Game Department as hunting and fishing land?

Sen. HANCOCK: I think they are Senator considered in that light; but they are under the jurisdiction, I think, as you know, the Department of Resources and Economic Development.

Sen. SANBORN: Would you believe that two years ago a similar bill came to this Senate and at that time fish and game gave us a map showing their ownership of land and they would not recognize the wild sections of Bearbrook State Park. They would not recognize the wetlands and wild areas of Pawtuckaway State Park and a good many others of these large areas that the state now owns and the only reason they recognize them is because they are not under their jurisdiction?

Sen. HANCOCK: Well, I have no reason to not believe that Senator. But on the other hand, there are pressures that are unique to the Fish and Game Department and in which they have unique areas where they think it necessary in the best interest to acquire and I'm not indisposed to giving them permission to do so.

Senator Hancock requested a roll call. Seconded by Senator Jacobson.

The following senators voted yea: Smith, Bradley, Jacobson, Blaisdell, Keeney, Hancock, Healy, Foley.

The following senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Rock, McLaughlin, Sanborn, Provost, Preston.

8 yeas 9 nays

Amendment failed.

Senator Lamontagne moved that **SB 37** be indefinitely postponed.

Sen. LAMONTAGNE: Personally in this bill before the committee if you look you see that there is an appropriation of \$200,000 for each fiscal year and this \$200,000 for each fiscal year is to come out of the general funds for bonds and notes which the payments for principle and the interest come from which will be the general fund. Now we all know that fish and game has been requesting an increase in their licenses for hunting and fishing and I'm sure although the bill doesn't say its going to come from the fish and game, still the fish and game couldn't afford to make the interest and payments to these bonds. I don't see where we can take care of paying the payments and principle and interest from the general fund and thats why I make this motion.

Sen. PRESTON: Mr. President, I rise to support the present motion to indefinitely postpone. This does establish a separate account for fish and game known as the fish and wildlife acquisition account and it does call for large sums of money and I don't think we should be acting in the capacity of the finance committee. New Hampshire has over five million, seven hundred thousand acreas of land. The state itself owns one hundred thirty-three thousand acres and the White Mountain National Forest six hundred fifty thousand acres for a total of seven hundred and eighty three thousand acres, not considering those areas included for many other uses such as the wetlands area alluded to by Senator Sanborn. Now there are some critical needs of areas in access to water needed by the Fish and Game Department. However, I don't think we should be frightened when the department comes in and says its critical because 87% of New Hampshire land is still forest and show some concern for the needs. We were presented an amendment the other day to a bill having to do with license increases that would propose taking a portion of that fifty cents or a dollar, I forget the exact amount that might generate. An estimated hundred to hundred and fifty thousand dollars which could be used for match funds such as Dingle

Johnson and the Pitman-Robertson funds as mentioned by Senator Hancock. Though I agree there may be some need I don't think its urgent and I think it could be handled in some other manner and I support Senator Lamontagne's motion.

Sen. JACOBSON: Mr. President, I rise in opposition to the motion on one simple ground that we are dealing with two hundred thousand dollars each year and when you look at that, its a very tiny sum out of the total expenditure and no matter how many acres of land we have at the present time, land particularly for wildlife for fishing or hunting is a rare commodity because it is the one item that is limited and for which there is no substitute. Land has a total inelasticity to it with the exception that we may be able to pick up Nantucket and Marthas Vinyard and possibly Salisbury, Massachusetts. I did incidently, as a parenthetical remark, speak to the Lt. Governor of Massachusetts last week and he was adamant about giving those three pieces of land but he did suggest a substitute, Boston Massachusetts but be that as it may in all seriousness, land is the rarest commodity of all and once land slips out of its potential usage for wildlife it is done. And if you're talking about millions and millions of dollars for the State of New Hampshire it seems to be that we ought to be willing. The fiscal crisis is going to exist regardless of whether the passage of this bill. Thats not a point. What is important is the opportunity of the fish and game to acquire those lands that are suitable and that amount of money compared to the hundreds of millions of dollars we are spending is so insignificant that it pales into nothing. I sponsored this legislation because I believe that we need to do everything we can to preserve what has been an essential character of New Hampshire and our willingness and unwillingness to spend two hundred thousand dollars which is an insignificant fund amount of money in the total frame I think its critical to our understanding of what is the fundamental need and what is fundamental to the character of New Hampshire. I hope that you reject the motion of inexpedient or indefinite postponement. In fact I'm surprised that this bill doesn't have unanimous approval of every member of the Senate.

Sen. LAMONTAGNE: Senator are you familiar with the proposal that is now before the general court of land that the state now owns for sale?

Sen. JACOBSON: If you indicate to me what lands are being for sale I can answer the question.

Sen. LAMONTAGNE: I'm talking about Cannon Mountain and a few other facilities.

Sen. JACOBSON: That is one of the most ridiculous proposals that has ever been offered in this Senate because Sunapee and Cannon Mountain brings in income and thereof are supportive of our state parks income and there are hundred and thousands of people from Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, and Virginia who all go the state park and spend their money to eat and drink and for gasoline and all kinds of things that is the most ridiculous proposals that has ever come before the State of New Hampshire.

Sen. LAMONTAGNE: Isn't it so that the question is before the general court whether or not it is going to sold or not?

Sen. JACOBSON: As far as I know, there is no bill that has been entered. That is a fantasy that has exploded.

Sen. BLAISDELL: Mr. President, members of the Senate I rise in opposition to the pending motion. I think the purpose of this bill is to provide means for the Fish and Game Department to purchase flood plains and other land. A prime example and perhaps the most visable case of the advantages of this bill lie with the Connecticut River. The fish and game department of New Hampshire, Vermont and Massachusetts have spent great amounts of money to clean the river and restore atlantic salmon to add to that river. The power companies in Massachusetts especially spend thousands of dollars on special ladders for their dams so that the salmon can get over the dam and continue to swim up stream. It seems ludicrous to me that we should spend all the money to clean up the river and then allow poorly planned developments to encroach upon the flood plain and possibly undo all the good that has been accomplished. Presently there are no funds being spent to purchase land to keep the banks free. The Fish and Game Department are, in fact, prohibited by law to spend money on such things. This bill will allow for the purchase of right of ways which make for better fishing among other things. The Connecticut River is but one example of how these funds will be used. I urge your support of the bill and I understand the crunch too Senator. I think I know it as well as you do but I think this bill should have a chance to come to Senate Finance in case some kind of miracle comes to this state.

Sen. ROCK: Mr. President, I rise in support of the motion from the Senator of the first district. I call your attention to

page two section 212:38, number two appropriation—there is hereby appropriated to the Department of Fish and Game the sum of two hundred thousand dollars for '78 and two hundred thousand dollars for '79 to be credited to the fish and wildlife area acquisition account. Mr. President the Senate finance has visited and walked the corridors of the Laconia school. We visited the cell block areas in the youth development center. We've seen the things that can happen with the few meager dollars we have been able to appropriate for half-way houses for disadvantaged youths. We've walked along the cell block corridors in the State Prison and we've seen the needs that are crying out for continued improvements in the state of New Hampshire. I think we are forgetting, if I might remind the senators, that the percentage of land that has been set aside in government owned, or state owned quantities is the highest in the northeast than it is in any other area, percentage wise. So while we understand what the Senator from the seventh district is saying that land is finite, our predecessors endowed us with a larger percentage of state and federally owned land in this area than in other areas. I think we must also realize that every time we move to acquire land in this way we also remove it from the productive tract of the state and the communities in which its located. Those communities that are also crying out for revenues would be relieved of that potential revenue by the action you would initiate here today in this appropriation. How this Senate can vote for land acquisition in the amounts that your talking about with the needs and the shortfalls and the terrible problems we face in finances today is to me unthinkable. I could not vote to appropriate this money whether we were to pay it off a dollar a year until we are in a better fiscal position than the State of New Hampshire.

Sen. SANBORN: You mentioned section two appropriations on page two under 212:38 I believe thats the amount of \$200.000?

Sen. ROCK: For '78 and \$200,000 for '79.

Sen. SANBORN: Senator, you sit with me on the capital budget and I've very well assumed that you have looked over the capital budget pretty well and is it not true that there is an item in the capital budget for the measly sum of \$125,000 for a halfway house for wayward girls in the Manchester area?

Sen. ROCK: You are correct Senator and I know that you are aware, as I am, that every single item in the capital budget

from the smallest to the largest is in jeopardy this year or we may find ourselves without a capital budget due to the lack of funds.

Sen. SANBORN: And further isn't it true that there are items in the capital budget relative to similar half way houses for prisoners that can be discharged from prison and placed in a halfway house near their own community and each one of those is about \$175,000?

Sen. ROCK: That is correct Senator and I hope somewhere we can find those funds to bring forward those much needed facilities that are crying out for correction in the state. I think those coming out of the YDC or two of those lets say in the ones we see in **SB 37**.

Sen. SANBORN: In other words Senator these two amounts here could provide us with two halfway houses for those coming out of the YDC or two for those let's say the Rockingham area, Hillsborough area for prisoners that are about to be released from our State prison?

Sen. ROCK: Yes and they should also do a great deal Senator to further correct those situations that we were so impressed with at the Laconia State School.

Sen. JACOBSON: I'm grateful for your expression of appreciation of the Laconia State School. The real needs of all people connected whether directly or indirectly for Laconia State School the costs of that in relation to several millions of dollars, do I understand by your response to the question that you are willing to find the revenue factor to do exactly what you said you would want to do as first priority?

Sen. ROCK: I think Senator what I said, and I'm sure you heard what I said that we have walked and visited these areas and we see the needs and we have to start somewhere and my grandfather who was very wise in these areas told me that you start with the small ones, the ones you can do and these take first priority and then the big ones fall in line. I know and you know Senator that if we were to add up all the needs of the State one could say that \$400,000 is nothing or one could say if we owe so much money in our house and our finances are in such a dire state that we will never be able to pay the rent this month we might as well go out and have a good time and blow a night on the town for \$100 because we will be just a little deeper in the hole thats all.

Sen. JACOBSON: Would you be willing to support by the

revenue measures the kind of funding which I understood you spoke to with respect to Laconia State School?

Sen. ROCK: I see the box you are trying to put me into Senator. Let me say this, with the available funds we have in the state and without any new tax measures at this time I would do all within my power to see that they go to the most worthy and deserving of the needs. I think Laconia State School is one of those most worthy, I do not think SB 37 is.

Sen. SANBORN: Senator I believe that you have stated here several times that you are a selectman of the town of New London. Here we are talking some \$400,000 spread over the biennium, could you give me an idea if we took \$400,000 worth of property out of the town of New London what that might do to the tax rate of the rest of the people?

Sen. JACOBSON: Senator, I was the original proposer of a property of \$120,000 out of the town of New London and the people voted to accept it and they have thanked me many times for it to provide a public beach for every citizen in the town of New London can enjoy.

Sen. SANBORN: Senator, that is not the answer to my question. I said if we moved \$400,000 worth of property off the roads of New London what would it do to the tax rate?

Sen JACOBSON: Minimum.

Sen. SMITH: I rise in opposition to the pending motion in favor of the bill. I too am on Senate finance committee and have seen many of the problems in the state. In fact I have been on Senate finance committee for four terms and I've seen those problems get worse and worse and no matter what you do unless you have sufficient revenues which we are not going to have unless we have some form of either sales or income tax we are not going to resolve our problems. However, this problem of land acquisition is going to be with us and as more and more people move into the state and more and more land is bought up for development this kind of land that the fish and game department is trying to get is going to become less and less and its going to become more and more expensive. I'm not here to represent just the people not just for this two years but hopefully for the future of the State of New Hampshire and it seems to me that this kind of legislation will be beneficial not only for the people in the state now but in the many years ahead and its something which we cannot continue to put off. This has been something which has come before the legislature several times in the past and it's

time we took positive action and pass this bill and by the way Mr. President I believe that under the rules that this bill will not pass here today but must go to Senate finance and I think we should give this bill the opportunity and the courtesy to go to senate finance.

Senator Preston moved the previous question.

Adopted.

Senator Hancock requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Rock, McLaughlin, Sanborn, Provost, Downing, Preston.

The following senators voted nay: Smith, Jacobson, Blaisdell, Trowbridge, Keeney, Hancock, Fennelly, Foley.

10 yeas 8 nays

Adopted.

Senator Preston spoke under rule No. 44.

INTRODUCTION OF SENATE BILLS First and Second Reading and Referral

SB 210, recodifying the probate laws of the state and incorporating some of the provisions of the uniform probate code. (Bradley of Dist. 5; Bossie of Dist. 20; Rep. Nighswander of Belknap Dist. 2—To Judiciary)

ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution except CACR 5 and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn,

we adjourn in honor of the recent wedding anniversary of the Senate Clerk until Tuesday, April 26 at 2:00 p.m.

Adopted.

LATE SESSION
Third Reading and Final Passage

SB 147, relative to posting bond or certification of assets by manufacturers, importers or distributors of motor vehicles to insure warranties.

SB 134, relative to reforestation of land.

SB 135, relative to public forest lands.

HB 565, providing for payment of a claim to Barbara Cyr and making an appropriation therefor.

SB 161, making a supplemental appropriation to the department of administration and control.

SB 175, providing a penalty for purposely or knowingly covering a fire hydrant with snow or other debris.

SB 136, relative to the change of use of land subject to the current use .

CACR 5, RELATING TO: Granting of Pensions by the Legislature.

PROVIDING THAT: The Requirements That Pensions be Granted for not Longer than One-Year at a Time be Repealed.

Division vote. 17 senators voted yea. 0 senators voted nay.

Adopted.

ANNOUNCEMENTS

The senate will meet in session on Friday, April 29.

Until May 5, the Senate will be using a daily calendar.

Senator Rock moved to adjourn at 4:20 p.m.

Adopted.

Tuesday, April 26

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, who has promised to lead us in the paths of righteousness lead us this day step by step without doubt or fear.

May we through our commemoration of the State's annual Fast Day, which was decreed as a day of fasting and prayer for John Cutt in 1681, continue in substance as we as a unit give of ourselves for the joy and fellowship of sharing with thee our thanks for reminding us through the centuries of thy continual help.

Amen

Senator Fennelly led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 211-246 and **SB 200**, CACR 23, CACR 24, shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 200, to create a state district court system for Belknap, Carroll and Grafton counties, with full time judges, clerks and other personnel as state supported courts and making an appropriation therefor. (Bradley of Dist. 5—To Judiciary)

SB 211, permitting certain school districts to withdraw from a supervisory union. (Jacobson of Dist. 7; Sanborn of Dist. 17—To Education)

SB 212, adopting the uniform limited partnership act. (Jacobson of Dist. 7—To Judiciary)

SB 213, adopting the uniform class actions act. (Jacobson of Dist. 7—To Judiciary)

SB 214, prohibiting the possession or sale of devices used to defraud communications companies. (Jacobson of Dist. 7—To Judiciary)

SB 215, establishing a family court for Merrimack and Sullivan counties and making an appropriation therefor. (Jacobson of Dist. 7; Rep. Wilson of Rockingham Dist. 2—To Judiciary)

SB 216, providing for the replacement of the Cannon Mountain aerial tramway; making an appropriation therefor; and, establishing a special account for the income from tramway service charges for operating costs and amortization of the appropriation. (Poulsen of Dist. 2; Smith of Dist. 3—To Capital Budget and Finance (Joint))

SB 217, prohibiting smoke bombs. (Jacobson of Dist. 7; Rep. Daniell of Merrimack Dist. 13; Rep. Ralph of Merrimack Dist. 13; Rep. LaBonte of Merrimack Dist. 12; Rep. Trachy of Merrimack Dist. 13—To Judiciary)

SB 218, concerning a statewide public school system performance evaluation. (Jacobson of Dist. 7—To Education)

SB 219, permitting a town on an optional fiscal year basis to hold a second session of the annual meeting. (Monier of Dist. 9—To Executive Departments, Municipal and County Government)

SB 220, requiring a mandatory jail sentence for any felony in which a deadly weapon is used. (Monier of Dist. 9; Rock of Dist. 12; Sanborn of Dist. 17; Provost of Dist. 18; McLaughlin of Dist. 13; Bergeron of Dist. 6; Rep. Dickinson of Carroll Dist. 2; Rep. Stockman of Merrimack Dist. 8—To Judiciary)

SB 221, requiring the office of state planning to estimate annually the resident population of cities and towns within the state. (Monier of Dist. 9; Hancock of Dist. 15—To Executive Departments, Municipal and County Government)

SB 222, authorizing the town of Peterborough to appropriate money and authorize borrowing for water purposes at special town meetings. (Trowbridge of Dist. 11—To Executive Departments, Municipal and County Government)

SB 223, relative to the winter maintenance of Diamond Pond road in the towns of Colebrook and Stewartstown. (Lamontagne of Dist. 1; Rep. Haynes of Coos Dist. 1—To Transportation)

SB 224, concerning responsibility for costs incurred when a court orders physical or mental treatment for a juvenile. (Foley of Dist. 24; Preston of Dist. 23; Downing of Dist. 22—To Finance)

SB 225, relative to permanent disability and retirement of probate judges. (Saggiotes of Dist. 8; Blaisdell of Dist. 10; Fennelly of Dist. 21—To Judiciary)

SB 226, relative to credit life insurance and credit accident and health insurance. (Bergeron of Dist. 6; Rock of Dist. 12—To Insurance)

SB 227, relative to the expiration dates of licenses granted to insurance companies, agents and adjusters. (Bergeron of Dist. 6; Rock of Dist. 12—To Insurance)

SB 228, relative to indicating legislative intent in all statutes enacted by the general court. (Monier of Dist. 9; McLaughlin of Dist. 13; Brown of Dist. 19; Bergeron of Dist. 6; Rock of Dist. 12—To Administrative Affairs)

SB 229, revising the laws of corporations. (Bossie of Dist. 20; Jacobson of Dist. 7—To Judiciary)

SB 230, establishing minimum standards of habitation for leased residential premises. (Jacobson of Dist. 7; Bradley of Dist. 5; Foley of Dist. 24—To Judiciary)

SB 231, relative to changing party affiliation in Manchester. (Bossie of Dist. 20; Healy of Dist. 16—To Manchester Delegation)

SB 232, relative to voting lists in the city of Manchester. (Bossie of Dist. 20; Healy of Dist. 16—To Manchester Delegation)

SB 233, relative to legal guardianship of the developmentally disabled. (Bossie of Dist. 20; Jacobson of Dist. 7—To Judiciary)

SB 234, allowing a member of the retirement system on insurance disability to continue to pay into the retirement system. (Foley of Dist. 24—To Finance)

SB 235, establishing a study commission on child abuse and neglect and making an appropriation therefor. (Foley of Dist. 24; Jacobson of Dist. 7—To Administrative Affairs)

SB 236, relative to a single retirement rate. (Hancock of Dist. 15—To Finance)

SB 237, concerning the affidavit used in case of a voter challenge. (Hancock of Dist. 15; Foley of Dist. 24—To Executive Departments, Municipal and County Government)

SB 238, relative to waiving competitive bidding for the city of Manchester under certain conditions. (Bossie of Dist. 20; Healy of Dist. 16—To Manchester Delegation)

SB 239, relative to the appointment, suspension and discharge of deputy sheriffs. (Poulsen of Dist. 2—To Administrative Affairs)

SB 240, permitting towns to appropriate money for day care centers. (Foley of Dist. 24—To Executive Departments, Municipal and County Government)

SB 241, establishing the southeast New Hampshire water supply project and making an appropriation therefor. (Foley of Dist. 24—To Environment)

SB 242, relative to partnerships, associations and corporations holding an insurance agent's license. (Bergeron of Dist. 6—To Insurance)

SB 243, relative to payments in lieu of taxes to the town of Gilford from the Belknap county recreational area. (Gardner of Dist. 4—To Executive Departments, Municipal and County Government)

SB 244, concerning vocational-technical colleges. (Sanborn of Dist. 17—To Education)

SB 245, relative to money deposited for the future use or rental of a motion picture film. (Sanborn of Dist. 17—To Banks)

SB 246, requiring rear wheel drive motor vehicles to be equipped with snow tires. (Sanborn of Dist. 17—To Transportation)

CACR 23, Relating To: A Citizens' Referendum on any General Sales or Income Tax. Providing That: Sales and Income Taxes May Not Take Effect Until After Approval by 2/3 of the Qualified Voters of the State Present and Voting on the Subject. (Monier of Dist. 9; Sanborn of Dist. 17; Rock of Dist. 12; Brown of Dist. 19; McLaughlin of Dist. 13—To Rules and Resolutions)

CACR 24, Relating To: A Lieutenant Governor. Providing That: A Lieutenant Governor be Elected at the Same Time, with the Same Qualifications, Though Not Necessarily of the Same Political Party as the Governor; He shall be Presiding Officer of the Senate and Shall Perform Such Duties as the Governor may Direct. (Bossie of Dist. 20; Fennelly of Dist. 21; Jacobson of Dist. 7—To Judiciary)

HOUSE MESSAGES HOUSE CONCURS

SB 58, relative to the rule-making powers of the weights and measures division of the department of agriculture.

SB 24, relative to the statutory definition of "farm, agriculture, farming."

HOUSE REFUSES TO CONCUR

SJR 1, establishing a committee to study the feasibility of quarterhorse race meets running concurrently with thoroughbred meets.

HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 551, 761, 445, 844, 848, 750, 866, 593, 605, 673, 481, 366, 804, 15, 301, 300, 280, 679, shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 551, relating to strengthening the powers of the collection division of the department of revenue administration. To Administrative Affairs.

HB 761, relative to the destruction of certain papers in the department of labor. To Administrative Affairs.

HB 445, relative to the penalty of a non-resident salt water fishing without a license. To Recreation.

HB 844, requiring all commercial eating establishments or places where food is served to post in a conspicuous place a graphic display of the Heimlich or similar maneuver. To Public Institutions.

HB 848, requiring optometrists and ophthalmologists to report all discovered cases of bad vision to the bureau of blind services. To Public Institutions.

HB 750, permitting the appointment of an assistant county attorney for the county of Rockingham. To Judiciary.

HB 866, relative to the board of adjustment decisions. To Executive Departments.

HB 593, permitting a licensee or a holder of an "on sale" permit to sell at another location under certain conditions. To Administrative Affairs.

HB 605, to provide a special liquor and beverage license for race tracks. To Administrative Affairs.

HB 673, amending the Conservation Commission Enabling Act by increasing the commission's responsibilities. To Administrative Affairs.

HB 481, amending the charters of certain savings banks. To Banks.

HB 366, requiring results of second reading votes be included as part of questions proposing constitutional amendments. To Rules.

HB 804, conforming the New Hampshire clean air act to the requirements of the federal environmental protection agency. To Executive Departments.

HB 15, exempting the tax on that portion of the dividend that constitutes a return of capital. To Ways and Means.

HB 301, relative to timber yield taxes and the bond and debt retirement tax. To Ways and Means.

HB 300, permitting a patient to direct the withdrawal of life-sustaining measures under certain circumstances. To Public Institutions.

HB 280, relative to ownership of certain unlicensed dogs and the penalty involved for not licensing a dog. To Recreation.

HB 679, relative to the fees for licensing dogs and dog keepers or breeders and requiring a health certificate on dogs sold by breeders and providing a late fee for failure to procure a license prior to June 1. To Recreation.

ENROLLED BILLS REPORT

HB 565, providing for payment of a claim to Barbara Cyr and making an appropriation therefor.

Senator Lamontagne for the committee.

COMMITTEE REPORTS

HB 340, abolishing the police commission in Claremont. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: HB 340 is an act to allow the city of Claremont to hold referendum along with its regular municipal elections next November as to whether or not a majority of those voting on the question want to abolish the police commission and not until that is done would the police commission actually be abolished.

Adopted. Ordered to third reading.

SB 131, relative to the sales of furnace and stove oil. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to **SB 131**

Amend RSA 359-A:33, II, as inserted by section 1 of the bill by striking out the introductory part and inserting in place thereof the following:

II. In the case of each delivery of such liquid fuel not in package form and in an amount greater than 10 gallons, in the case of sale by liquid measure, or 100 pounds, in the case of sale by weight, there shall be rendered to the purchaser, at the time of delivery, a printed delivery ticket which shall clearly state the following:

Sen. BOSSIE: Mr. President, this amendment was provided by the commissioner Townsend of the agricultural department and basically would clarify the bill better than the original way it was introduced. What it does in fact is provide that in retail sales all sales slips will be needed and so that now this is not a requirement but 99% of the distributors, the retail sellers do provide this metering. They feel that it is not overtly a great problem but which everyone substantially complies and it would be a good idea to change it at this time. Senator Bradley is the sponsor of the bill if he would like he could clarify this even further. No one appeared in opposition and several people appeared in favor.

Amendment adopted. Ordered to third reading.

SB 149, protecting the welfare of certain adults by providing protective services. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President members of the Senate this bill was requested by the Division of Welfare what in essence is saying here is that there are certain people under their guardianship these days who don't have anybody else to take care of them and in many cases they have to have somebody to sign for them and they are asking for permission to legally sign for them when certain things come up. They gave an example of three or four people they have who have no living relative whatsoever and no one around to sign for them and they are taking it upon themselves to sign and they are afraid of legal action being taken upon them by somebody else. What we are saying here is when there is no one around for a guardian for these people they be allowed to sign as their guardian take the responsibility to have certain things done.

Sen. LAMONTAGNE: Mr. President, members of the Senate I'd like to explain further that if there is an individual, especially if he has to have medical attention there is nobody to sign if he is not able to sign. If it's passed then a guardian would be able to sign in his behalf for instance if it were necessary for me to sign some necessary papers if I wouldn't have been appointed by the court for a patient at the state hospital who had to have the necessary permission to have a leg cut off. Therefore, under this guardianship, the individual will be able to sign to take care of him supposedly if there is an emergency.

Adopted. Ordered to third reading.

HB 288, relative to emergency medical technicians. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the Senate **HB 288** is saying that we have people at the present time that are going to school and studying to become paramedics and they will be graduating very soon and what we are asking here is that they go out on the field or be sent out to work on people and be given permission to use drugs and so forth. It is

only with the permission of the doctor who is talking to him by radio or telephone whatever kind of communications they may have. This does not grant them any special permission except to work under the care or control of a hospital or doctor that's on duty. We will have very shortly people throughout the state who pass the test and are capable of doing these things but they will not be allowed to do it unless we pass this bill which gives them permission to use drugs and administer drugs to people for accidents and so forth. We recommend its passage.

Sen. SANBORN: Senator, a couple of years ago we had some bills in here relative to these emergency crews, ambulance people and there was quite a lot of discussion about trying to make all ambulance people, these volunteer outfits like Raymond, Northwood etc., making them take this paramedic course, this isn't another way around it is it, requiring that these ambulance crews be paramedics?

Sen. McLAUGHLIN: The answer is no.

Adopted. Ordered to third reading.

HB 73, relative to mental health services for minors. Ought to pass with amendment. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the Senate, the amendment for HB 73 is on page 9. What the amendment is saying is that regarding insurance carriers and so forth at the present time. The thought is that you may not bill a guardian or parent for the care of a minor which you may give to them unless the minors parents agree to it. As to clarify this amendment specifying that there is no way that a doctor or somebody else can turn around and bill an insurance carrier for the services rendered unless permission is granted by the parents. I think we are trying to clarify giving their consent, otherwise they can make the visits and do it on a free basis.

Sen. BOSSIE: Senator it would appear from the face of the bill that the purpose of the bill is to promote mental health care for our minors, is that true?

Sen. McLAUGHLIN: Correct.

Sen. BOSSIE: Well, if that is the case how will your amendment help foster this needed care?

Sen. McLAUGHLIN: I don't think the amendment is going to help foster needed care. What the amendment is saying here is that they can clear a person who is going to help out a mental person or somebody else, a minor, cannot bill the parents for that service rendered unless the parents give their permission. It's not allowing a person of 14 years of age to tie up or commit the parents for the charges provided.

Sen. BOSSIE: Well, if we aren't going to have the parents pay, just who will be liable for this? The State? The county? the town?

Sen. McLAUGHLIN: The people who came to the hearing said they would do it and they have been doing it. It has been going on in the past, doing it for no charge and the group who was there said they will continue to do it if they couldn't get funding, they would still be willing to accept these people and work with them.

Sen. MONIER: Mr. President, I rise in opposition. I have no problem with the amendment per say, I just want to rise in opposition to the whole situation of HB 73. In the amendment if you read it it says, unless a minor's parent or legal guardian has been notified and has consented to the delivery of mental health services by mental health profession, he shall not be liable for the cost. This intrigues me because what it says then is that there is a way by which this mental health cost can be given to a child without parental consent and if you read the bill that's exactly what's there. It says this bill permits the mental health profession to provide outpatient service for a minor who is 14 years of age or older without the knowledge or consent of the minor's parents or guardian where the professional has reason to believe that the minor is in need of mental health. I think this is another one of the same kind of bills which help us tear down parental responsibility in familial problems and I'm sorry I'm not going to vote for those kind and as far as I'm concerned I hope we defeat the amendment and defeat the bill.

Sen. BRADLEY: I disagree very strongly with what Senator Monier has just said because I believe that the purpose of this bill and the effect of this bill will be to accomplish what Senator Monier wants to accomplish and that is to improve family situations because invariably what the mental health professional who intervenes in this kind of situation where parental consent has not been given his primary goal

will be to help reestablish a healthy family unit if it can be done. So that rather than working against the family this bill is well designed to help support the family. Now it is a bit anomalous a kid in trouble who is having trouble communicating with his parents can go and talk to his coach, go and talk to the local policeman, and go and talk to the friends down at the pool hall, he can go and talk to the bum on the street he can go talk to anybody except the one person in our society who has been certified as being qualified to deal with that kind of problem, the mental health professional as defined in this law. I have told mental health professionals that they are entitled to give advice to kids 14-18 but there is nothing unlawful about doing that and I believe that is so. However, they feel constrained to do it without the benefit of this kind of bill and therefore I think we ought to make the law clear. We shouldn't have them feel that constraint. We ought to let the one person, the one professional who is best qualified to give advice to kids in trouble to give them the advice.

Sen. MONIER: Senator, why do they feel constraint?

Sen. BRADLEY: Well, the best I can determine their problem there is a concept in the common law, if someone operates on a minor without parental consent that he would be guilty of an assault and battery because that would be an unpermitted touching. Somehow these people have extended that doctrine to the doctrine that you can't give advice to a minor without the parental consent. As far as I can tell and I have researched this point and I've made the point many times there is nothing to it; but the constraints still exists in the minds of the mental health professionals.

Sen. MONIER: It is true that you cannot perform an operation or admit some medical reaction to a child or minor without parental consent without going to the courts specifically. Is that not correct?

Sen. BRADLEY: Well, its not quite that simple. There is the risk if you operate on a child, physically operate on a child without parental consent that you might be guilty of a battery, civilly, probably not criminally. The big exception to that of course is where there are emergency situations where you cannot either get court permission or parental permission and they are probably the legal obligation is to operate. The law kind of reverses itself and says you shall operate under those circumstances.

Sen. MONIER: Is this not all based on common law that

the parents are responsible for their children and that any action taken whether it be medical, legal or otherwise either must have the parental consent or it must have jurisprudence consent in some way or another? To a court, or judge or some other procedure?

Sen. BRADLEY: Well, what I'm trying to say is that common law, as I've been able to understand it, and research it does not prevent anyone from giving advice to a kid or a kid seeking advice from anyone. The law just doesn't deal with that. And a lot of these people are worried that it does.

Sen. MONIER: The point I'm trying to raise Senator is that they are liable for civil action, I'm not talking criminal action. If, for example, under certain ones in the law if a person or a parent does not want something done to their child, now isn't that correct that they civilly and is their biggest concern, I'm talking about medical doctors?

Sen. BRADLEY: Presumably, lets say no emergency plenty of opportunity to get judicial approval and the doctor goes ahead and performs a tonsilectomy or something even more optional, probably there is some kind of legal remedy the parents have against the doctor for the unpermitted touching of the assault and battery under the common law.

Sen. MONIER: In a sense then, what we are saying with this bill is that we are putting mental health treatment out of reach of the parental consent legally, is that not correct?

Sen. BRADLEY: I accept that formulation.

Sen. MONIER: Is this not correct then that this protects for civil action on the part of the parents if they did not agree with or like or disagree with or felt there was other consultation necessary?

Sen. BRADLEY: Thats right. With or without this bill its my opinion the parents cannot sue successfully a psychiatrist or other mental health professional as defined in this act for giving advice to a child under the age of 18.

Sen. MONIER: But obviously the psychiatrist or the mental health people don't agree with you and thats why you need the bill?

Sen. BRADLEY: Well, I don't know, they just want the issue made clear in a nice neat statute.

Sen. MONIER: In a sense then this is saying that someone can act as parent in absentia even if the parents object to a child under a minor age, am I correct or not?

Sen. BRADLEY: Yes, the way you say it but no more so

than if the kid went to talk to the cop on the corner or the bum in the alley. The parents might object to that too but there is nothing to prevent the kid from going and asking and nothing to prevent the adult from giving the advice.

Sen. MONIER: In truth then what we are saying is that this bill removes from the parents the capability of saying no if a professional says yes? Is that correct?

Sen. BRADLEY: It only makes clear that that is the law.

Sen. SANBORN: Senator not in the line of Senator Monier but previous questions from some of the things we've gathered down in finance. These psychiatrists and other people don't come for free, so who is going to be liable for this bill?

Sen. BRADLEY: Well, if there is no parental consent, if the bill is rendered for this presumably its not going to be paid.

Sen. SANBORN: I gather that from the amendment. Senator we passed a bill the last session relative to Blue Cross/Blue Shield but according to the amendment they are not liable, so who is going to be liable?

Sen. BRADLEY: Well, I suppose your suggesting there is no such thing as a free lunch and I agree with you. The fact is that this kind of service does get by currently without billing the parents who exactly is absorbing the cost, I don't really know but that situation is going to be the same with or without the bill.

Sen. SANBORN: Then you would assume it would probably be either one of three, the community, the county, or the state is going to foot this bill?

Sen. BRADLEY: Well, I suppose the federal government or other purchasers of the services or something that is genuinely donated by the psychiatrist.

Sen. LAMONTAGNE: Senator, does this now take some of the minors out of the Laconia State school and put them into county nursing homes in any way?

Sen. BRADLEY: I don't think this bill has anything to do with that particularly.

Sen. LAMONTAGNE: It refers to mental health services for minors. Is this a way for the State of New Hampshire to get federal funds through social security?

Sen. BRADLEY: I have no information one way or the other on that question.

Sen. LAMONTAGNE: Then you don't know whether or not it's possible if this bill passed that some of these chil-

dren at the Laconia State school could be placed into a nursing home because of being fully handicapped?

Sen. BRADLEY: I don't see how this bill really has anything to do about whether the child will be in Laconia State School or not to tell you the truth.

Senator Rock moved that HB 73 be laid on the table.

Division vote: 12 senators voted yea. 7 senators voted nay.

Adopted.

SB 16, relative to the extent of medical treatment which a licensed podiatrist may perform. Ought to pass with amendment. Senator McLaughlin for the committee.

Amendment to **SB 16**

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Board Rules. Amend RSA 315:4 (supp) as amended by inserting in line 3 after the word "chapter." the following (The board shall also establish rules and regulations for determining procedures which may be carried out by a podiatrist in his office and in the hospital setting.) so that said section as amended shall read as follows:

315:4 Rules and Regulations. The board may adopt such rules and regulations and blanks and forms of procedure as it may deem necessary to carry out the provisions of this chapter. The board shall also establish rules and regulations for determining procedures which may be carried out by the podiatrist in his office and in the hospital setting.

3 Establishment of Peer Review Committee. Amend RSA 315 by inserting after section 2 the following new section:

315:2-a Peer Review Committee. The board shall establish a peer review committee consisting of 2 podiatrists appointed by the board and one medical practitioner, appointed by the board subject to the approval of the board of registration in medicine. Each appointee shall serve for a 2 year term.

4 Penalty. Amend RSA 315:9 by inserting in line 3 after the word "cause" the following (The board may also suspend,

revoke or impose other penalties against podiatrists.) so that said section as amended reads as follows:

315:9—Revocation. The board may revoke for cause any license issued by it, and failure to comply with the law and the regulations of said board shall be deemed sufficient cause. The board may also suspend, revoke or impose other penalties against podiatrists.

5 Effective Date. This act shall take effect 60 days after its passage.

Sen. McLAUGHLIN: Mr. President, members of the Senate on page 9 is the amendment on **SB 16**. What this actually does is establish a board for them and we had quite a bit of controversy in reference to the make up of the board and so forth. So after agreements by many parties concerned if you read down 315:2-a the Peer Review Committee and so forth it was agreed by these people how its to be set up and it is agreed by all parties concerned. Finally we come out and say that people were for and against this bill did all agree on the amendment and we think we've got people happy with the amendment and what it does for it and I recommend its passage.

Amendment adopted. Ordered to third reading.

Special Order 2:01

SB 155, requiring all mobile telephone service companies and radio paging service companies doing business in the state to be regulated by the public utilities commission.

Senator Bossie moved an amendment to **SB 155**.

Sen. BOSSIE: Mr. President this is an amendment that is agreed upon by the committee and with the powers that be in the field of mobile telephone communication. Basically this amendment was submitted by the telephone company and would assist them as to not confuse the situation and would not exclude them from the terms of the bill. As we know Commex is the only mobile telephone service company in the state and obviously they work hand in hand with the tele-

phone company and the intent of the bill was not to exclude telephone companies. So this amendment is proposed by the committee by Senator Saggiotes and myself would include them within the terms of it. It would provide that both the telephone company and the mobile telephone service companies would all come under the auspices of the public utilities commission. Its a utility, we think it is a proper procedure and we would urge your agreement with the amendment.

Senator Lamontagne moved that **SB 155** be made a special order for Thursday, April 28 at 1:01 p.m.

Sen. LAMONTAGNE: The reason for the special order is because seeing there is an amendment I believe that all the senators should have a chance to look over the amendment and not be asked at this time to vote on this. As far as I'm concerned I'd like to have a chance to look over the amendment and I'd like to make it a special order.

Division vote: 13 senators voted yea. 2 senators voted nay.

Adopted.

ANNOUNCEMENTS

The Chair appointed a special Manchester delegation consisting of Senator Bossie, Chairman, Sanborn, Provost and Healy.

Senator Monier moved that the agreement for two-day notice for committee reports be suspended through May 5.

Adopted.

Senator Rock spoke under rule No. 44.

SUSPENSION OF RULES

Senator Trowbridge moved that the rules of the Senate be so far suspended as to allow taking up committee reports listed in the calendar for April 27 at the present time.

Adopted.

Senator Lamontagne moved to reconsider the action by which the Senate made **SB 155**, requiring all mobile telephone service companies and radio paging service companies doing business in the state to be regulated by the public utilities commission, a special order.

Sen. LAMONTAGNE: I thought possibly I would move to make this motion to reconsider in order to expedite some of our work. Its not necessary to have the special order at this time and therefore if the senate would reconsider I'm ready to vote on **SB 155** and I so move it.

Adopted.

Motion of ought to pass with amendment.

Amendment to **SB 155**

Amend RSA 374-C:1, I, as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. "Radio common carrier" shall mean every public service corporation or any other person or organization owning, operating, controlling or managing a mobile radio communications system, except corporations offering public land line message telephone service or a public message telegraph service.

Amend RSA 374-C, as inserted by section 1 of the bill, by inserting after section 7 the following new section:

374-C:8 Application. This chapter shall not apply to nor affect the rights of a public utility as defined in RSA 362:2 nor affect any services offered or to be offered in this state by such a public utility including mobile radio telephone service, one-way page service, radio microwave service or any other service, plant or equipment offered or to be offered or used by a public utility.

Amendment adopted. Ordered to third reading.

COMMITTEE REPORTS

SB 145, relative to motor vehicle repair facilities. Ought to pass with amendment. Senator Foley for the committee.

Sen. FOLEY: Mr. President the amendment is listed on page 10 of the calendar for today. This bill is the result of many letters that people have written feeling that perhaps they had been ripped off when they had their automobiles repaired. I work with the attorney general on this and we brought out a bill which we thought was a pretty good bill, however, when we got in touch with the automobile dealers, with garage people and with the people themselves we felt perhaps it was a little strict so we amended the bill at which time the garage people are much in favor of the bill, the automobile dealers are in favor of the bill, the consumers are in favor of the bill and the attorney generals office is in favor of the bill even the Union Leader had an editorial out in favor of the bill so I feel that's as much as I have to say on it. It will take care of the problems that people have had concerning automobile repairs having the garage people list how much its going to be before they start the payments and I'm sure that it is an excellent bill and I hope that everyone will vote to pass it.

Senator Brown moved that **SB 145** be laid on the table.

Adopted.

SB 146, relative to the posting of a bond or certification of assets by every manufacturer of mobile homes to insure warranties. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to **SB 146**

Amend Chapter 205-B, as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

CHAPTER 205-B
Mobile Home Warranty Bonds

205-B:1, Surety Bond. Every manufacturer of mobile

homes, as defined by RSA 205-A:1, I, which are sold or delivered in the state of New Hampshire shall certify, to the division of consumer protection in the office of the attorney general, assets of not less than \$50,000 located in New Hampshire or shall post a surety bond of not less than \$50,000, with said division to insure warranties.

205-B:2. Damages; Breach of Warranty. Any person aggrieved by a breach of an express or implied mobile home warranty caused by a manufacturer shall be entitled to damages, costs and reasonable attorney's fees against such manufacturer and may proceed on the assets or bond required by RSA 205-B:1 against the principal, surety or both to recover damages, attorney's fees and costs.

205-B:3 Remedy. The attorney general may bring an action to seek injunctive relief against any manufacturer who fails to comply with the provisions of RSA 205-B:1 to enjoin said manufacturer from doing business in this state until the required assets are certified or bond is posted. Any such action may be brought in the superior court of any county in which the mobile homes are sold or delivered.

Sen. BOSSIE: Mr. President is it my understanding that **SB 146** is coming out right now? The entire bill is on page 14 of today's calendar. This is a bill by Senator Blaisdell and as requested by the attorney general's office. Its having a surety bond on mobile home warranties. This is similar to a bill that we passed last week with regards to manufacturing motor vehicles. This is an amendment as proposed by the attorney general. It really does very little other than what was in the first bill and it provides, rather than having a criminal penalty for not having a bond, it would just replace it with this sort of thing to require a surety bond. It appears to be in order. There was no opposition to the bill at the hearing.

Amendment adopted. Ordered to third reading.

SB 97, increasing the appropriation for regional vocational education centers. Inexpedient to legislate. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: I have spoken with Senator Preston who is the sponsor of this bill. This bill would have raised the bonding for the vocational educational centers just for one

high school namely Exeter. We were informed by the other sponsors, Doug Scammon and other people, that there is a house bill coming through that will take the rest of the bonding, if they are going to do it for more than just Exeter, so that we find the full extent of what we are going to invest to regional vocational centers rather than taking them one at a time. They asked us to hold the bill, then I talked to him later and I said I'd just sort of like to cleanhouse, that other bill will obviously come over, so we are sending out **SB 97** inexpedient to legislate.

Adopted.

SB 7, establishing retirement and permanent disability benefits for district court justices. Ought to pass. Senator Rock for the committee.

Sen. ROCK: Mr. President, members of the Senate **SB 7** deals with an extremely limited number of justices in the State of New Hampshire. To be exact, four. The testimony at the hearing indicated that each of these courts with the revenues raised through their own operation is able to fund at present the retirement called for under **SB 7**. I think we must realize in considering this bill that the justices that we are talking about by canon of the Supreme court are not allowed to engage in any other activity for making a living. They cannot practice law. As a matter of fact we've lost several very talented members of the bar because of the consideration that they might not even be able to have outside income from investments under the canons as passed down by the Supreme court. We feel that when the caliber of the courts at the high level we feel that it is now on a district level and the salary paid is no where near commensurate with the level of education or the caliber of people we are asking to serve as members of this court system and that we must be compassionate in their needs as far as retirement is concerned and any justice who is not permitted to engage in the practice of law who retires and who is 70 years old and has served as a justice for at least 7 years or is 65 years old and has served as a justice at least 10 years shall get $\frac{3}{4}$ of his salary paid to justices in regular service. This bill is patterned exactly after the measures we have passed previously for supreme court justices and to me its a sensible way to show our concern and appreciation for some of the con-

straints we put on these people with the restriction imposed by canon law as to their outside activities. I urge the Senate to adopt **SB 7** with the consideration again that your talking about 4 people in the state of New Hampshire. It effects the court systems of Nashua, Manchester, Concord and Keene and no others.

Sen. HEALY: Senator Rock, number one, is Manchester involved in this particular pension system when we already have a pension system for judges?

Sen. ROCK: I think the difference would be Senator Healy that the pension system that you have for the justices in Manchester now is a contributory system and this would make it a non-contributory system.

Sen. HEALY: Do you understand that the justices in Manchester, district court justices are satisfied by their system?

Sen. ROCK: There is nothing that says they have to do this, if they want to keep in the one they are in.

Sen. HEALY: Tell me, why does the widow of a justice have to be compensated on a disability like this or a pension system like this here?

Sen. ROCK: Well, I would think you would want to have no less concern for a widow of a justice then you would for the director of motor vehicle or the widow of a state trooper would you? They come in under it.

Sen. HEALY: Do they pay into a pension system or is their system contributory or non contributory.

Sen. ROCK: Contributory. But they are also allowed to have other outside income, they can do other jobs, they can do alot of things you can't do when you are a judge.

Sen. HEALY: Do they have to be judges in Nashua, can't they take some other assignment, can't they continue to practice law if they want to?

Sen. ROCK: Absolutely, precisely no. NO.

Sen. HEALY: Why do they have to serve as justices?

Sen. ROCK: Well, I don't think I understand your question, but if I do understand your question, why do they have to serve as judges I guess the answer would be Senator they don't have to but if nobody does, such as do you have to serve as a Senator, the answer is then who will do the job?

Sen. HEALY: If your justices in Nashua resigned tomorrow would you think there would be no candidates for the position?

Sen. ROCK: Senator you would be amazed to know how

many people go through in trying to find somebody to take these jobs and if you don't believe that then walk down the corridor and ask the chief executive how hard it is to get someone to serve as a district court judge in Nashua because he gets \$33,000 a year and he probably paid more than that in income tax the year before and he can't have another job and he can't serve as a lawyer. He can't have income from outside sources and he is very restricted and yet must do all the things that judges have to do, they live a very special life.

Sen. HEALY: Since he can't do all these things just why is he doing these things?

Sen. ROCK: He's doing it for you and he is doing it for me so that we will have qualified people sitting on the bar. Otherwise, your going to get the dregs, the people who are not qualified to do the kind of work that a judge must do. \$30,000 might look like a lot of money and thats not the kind of person I want to see sitting on the bar Senator.

Sen. HEALY: You consider your Nashua justices down there very patriotic, they are doing the community a big favor. Is that what your telling me?

Sen. ROCK: I didn't say that.

Sen. HEALY: These justices were they handcuffed and brought before the Governor and Council to be made district court judges in Nashua?

Sen. ROCK: Actually, there was a considered search made to find somebody who would serve in that post, yes. And we've lost several qualified able justices because they couldn't live with the constraints we were placing on them.

Sen. HEALY: In response to your question they couldn't find anyone. Perhaps the Senator from Manchester, district 16 could find quite a few candidates for the position which would be well qualified and would travel to Nashua every day.

Sen. ROCK: I doubt that Senator. I challenge you on that.

Sen. HEALY: How many do you want?

Sen. ROCK: Just one.

Sen. HEALY: Just one, alright I'll produce him for you. In fact I'll produce three for you, overnight if you want. I want to ask you one simple question would you consider this a rip-off?

Sen. ROCK: I don't think I'd answer that question Senator.

Senator Bossie moved that **SB 7** be referred to the committee on Finance for interim study.

Sen. BOSSIE: I make this motion because I feel that the finance committee is quite able to consider the question of pensions for all sorts of judges as well as the rest of our state employees, I don't do this with any vitriolic attitude either toward any of the judges who would be included. At the same time I would not agree with Senator Rock that only 4 judges are included because as we know Nashua has 2 judges, not one. Manchester has 2 judges not 1. Concord has one and so does Keene so that there would be 6 judges that would qualify under this and as we know pensions under this bill would be the same as that of the superior court and the supreme court but would be paid from district court revenues. Though it would not cost the state anything if your town or your city is getting any revenues from the district court than this would take out of it. At the same time, as Senator Rock knows, I have supported a bill that's before the Senate now and I believe its in the judiciary committee to increase the salary of district court judges and I know the senator from Nashua is concerned primarily with the Nashua judges as well he should be and this bill if it passes and I have no reason to suspect it won't would give them approximately a \$2,200 pay increase. It would make them 95% of the salary of the superior court judges. I think that would be very fair. At the same time, for those of you as I am sure are interested in what the Manchester judges feel, its my opinion that they don't care if this bill passes or not because in Manchester under city system plan of pensions which are contributory, this is not contributory, our is they prefer to be in the contributory system. All I can say is I appreciate the work done by the finance committee and I appreciate the facts as stated by Senator Rock that these people need more money and I have no doubt that they do; but the fact remains is that they took these jobs knowing just what they pay. I don't think that a district court judge should be given a pension of this nature. I think either he has to earn it or contribute to it and then we will consider it. Since the hour is late for a bill of this nature I think it is a good thing to send it to interim study of the finance committee and let them deal with it in a stronger fashion.

Sen. TROWBRIDGE: I rise in opposition to the pending motion. As you may know a great many pension plans in this country work with no contribution. In other words, it's not at all unheard of, I'd say about $\frac{2}{3}$ rds of the pension plan have contributions. Our state pension plan does because we don't

have enough money to take care of our state employees; but I don't think Senator Bossie is really thinking too hard when he says that we have to send it to Senate Finance. What we are trying to do is get the sense of the Senate as to what judges are going to have a pension plan for and what judges are not. And until we get bills like this passed there is no way for us at that point to go back and reconsider as to whether we should fund or contribute to the system. We have done this with the supreme court, we then did the superior court justices. There is no way that you can distinguish between the hours put in between a superior court justice and a district court judge. He works just as many hours. He's there, he handles five times as many cases and the testimony we heard is a full time judge. So we are bringing up the other element of the judicial system, namely those that are full time judges. If this bill should pass at that point let's say there is a bill in on probate judges and let's say that doesn't pass, then we would have a legislative mandate as to how many judges we are going to do retirement for. Then it would be my full intention as we have at some other time, is to then say we should form what we could call group three in the retirement system, which would then have enough people in it on an actual basis by which you could prefund the retirement system of all the justices; but until we know who the actors are on the stage it's very difficult to make any sense out of it, that is why Senate Finance rather than trying to resolve every issue especially since none are coming under retirement right away want to get to the Senate and say do you want to have the same treatment for district court judges as you do for superior court within their salary ranges. If you do, then we can make some sense out of it. We can make no sense out of it without some direction. You send it back to Finance now we will have no more direction than we had when we started out this session. So please either kill the bill or pass the bill, but please do not vote to send it back to Finance because there is nothing more we can do with it without some direction.

Sen. MONIER: Senator, do you mind if, because I'm against the motion, I just ask a couple of questions? The first one is when you say not permitted, is not permitted to engage or practice law what really restricts to full time district court.

Sen. TROWBRIDGE: That's what it's meant to do.

Sen. MONIER: Is it not true that in those kind of cases for

money for which they are paid and salaries etc. is not a cost of the state but comes out of the district court more or less.

Sen. TROWBRIDGE: Yes it does.

Sen. MONIER: There is really no money involved in this in terms of hours as of retirement because part of what they earn as a court, is that correct?

Sen. TROWBRIDGE: That should be true.

Sen. BRADLEY: I want to rise briefly to oppose the motion. I think the arguments have been stated already pretty well and just to add on to Senator Trowbridge's last response to Senator Monier, the testimony was in committee that indeed these four district courts are involved are making a lot of money and turning it back over to the towns so that it really isn't going to be opposed to being a real burden on the towns even if all 6 retired immediately, which none of them are. Beyond that it's been well stated the equities are pretty clear. There is no equitable rational way to treat Judge Harkaway in Nashua, a district court judge full time than it is to treat Judge Keller on the superior court or Judge Kenison on the supreme court.

Sen. HEALY: When I hear the word full time of these district court judges, it disturbs me. As I heard that the judges down in Nashua work full time, and I had several calls from the town of Nashua from people down there, not from Manchester but from Nashua to tell me that was an error that they did not work full time. So I took it upon myself from hearing the reports to go down and make a personal check and find out if they were full time. I went down to Nashua, New Hampshire, and went into the district court, not only were the district court judges not there, neither one of them, Harkaway or the other one, Pantelas, nor was the Clerk of Court present. When I arrived in that office there was a girl filing and that was at 2:30 in the afternoon on a Monday, which should be the busiest day of the week, it is in Manchester after the weekend. I talked with the deputy clerk of court, who is a very lovely young lady, and she told me they had all left, that Pantelas had handled 4 juvenile cases that particular day. I asked if I could see the record of what went on that particular day and she was kind enough to show me the record. There were something like four or six cases carried for Hudson that were acted upon. There was one so called trial that lasted a few minutes with reference to a woman involved in a burglary, store theft or something like that. The rest of the cases were all cases of

traffic court cases. These cases were drunken drivers, speeding and so forth, which were automatic and very easy to handle. I made the statement a kid from high school could do it with a formula in front of them, and they're talking about the salary of these people. They are fighting for these jobs. Let me review the situation in Manchester for you. We have two judges in Manchester and if you ever saw a battle for those jobs, you wouldn't believe it. One judge is Capistran and the other judge is Justice O'Neil. They started out in 1970 and their salary was Capistran, \$36,538, O'Neil, \$32,884. Since then they have received in 1970, again four months later they were advanced, they were crying for greater salaries, they were overburdened with work. So they did receive increases. A short time later January 1, 1974 they went up to \$461 a week and \$442 a week. August of 1975 they went to \$576.92 and \$571.15. Recently, they've been advanced and given a salary just 5% short of the superior court justices. Now they put in a good days work, down there, I'll have to say that. That is if you go by time. But we, the working people, put in a good days work too, we don't work four or five hours like they do down in Manchester sometimes 6 hours. We work 8 hours and sometimes longer but we don't go crying to have our wives put on a pension fund. We talk about finances in the State of New Hampshire being in trouble. Here we have the first payments on the superior court and so forth as of July 1, Justice Morris is going to receive \$25,467 a year, make a good condominium in Florida for him. Then we have Mrs. Leahy who I don't think she wore a black robe at all. She is \$17,082. This is taxpayers money, a total of \$42,595—\$42,549, and in the future it's going to be another justice added for the supreme court and I think a superior court justice. If this is the kind of money that the kids in Dunkin Donuts have to give extra pay for, I disagree with it. I don't go along with that kind of justice at all. If that's justice I don't want any part of that kind of justice. As far as I'm concerned, Nashua, Manchester and a whole lot of them can go take a jump in the lake, if you're going to consider justice. That is not justice to the people. Not by a darn sight is that justice. Furthermore, the judges in Manchester, New Hampshire called upon me and in fact Judge Harkaway called upon me and asked me if I would dine with him so he could explain it. I told him no, I was too busy a man to go down to Nashua. I said if you want to buy the dinner for somebody, buy it for Senator Rock, he's the

man putting the bill in for you, not me. I'm not interested. If this is what we are going to have, and this is what you call justice, and as Senator Trowbridge said a little while ago we've got to bring these things in to give to people sometime we can come to a conclusion where we can get a format up. Why don't they stall it and come up with a format instead of going on and raising the lawyers and the judges salaries at all times. I call that a rip-off. I don't care what anybody else says.

Sen. McLAUGHLIN: Mr. President I rise in opposition to the pending motion. I think that the statements that brother Healy has just made are not all that truthful. I come from Nashua, been in Nashua all my life, happen to have a brother who put in 15 or 16 years as a judge in Nashua, I'm rather close to him and have been, I know the hours he put in as district court judge. I lived at home when he did it for a while. I remember the nights he came home late for supper. I remember nights when the police arrived at his home to get warrants or whatever else they may sign to be signed and taken care of during the course of the evenings. I think it's disgraceful that the brother Senator would rise here and say somebody works only 3 or 4 hours. He doesn't know the facts in Nashua. He may know the facts in Manchester completely well and good luck to him. In Nashua we were very fortunate in getting two judges to take over, Pantelas and Judge Harkaway nobody wanted the job in Nashua, for a lawyer to take that amount of money. I think that Judge Karkaway is getting less than 1/3 of the income he was getting the year previous for taking over the judgeship. I know the people in Manchester who went with him and asked him to give up his law practice to take this full time judgeship because the law says you have to put him on full time. In this situation here in handling certain cases and so forth and I know he has lost 2/3 of his income by taking this job on and I think we should appreciate this man of his caliber to take this position on and do a good job. I'm sure we probably could have several lawyers in Nashua who are fresh out of law school taking this job on; but outside of that every lawyer in Nashua is fortunate. They do not need a judgeship job of this nature here. They have juvenile sessions and so forth, I think the Senator's remarks were not correct about the judges in Nashua and those people.

Sen. BRADLEY: Senator McLaughlin, I seem to recall

hearing testimony from one or more of the Nashua judges, I think perhaps it was your brother, about a program they had where they met regularly on Saturday mornings. Can you confirm my recollection of that?

Sen. McLAUGHLIN: That is correct, they were at the time. They were there with juveniles and had a committee put together of civilians of 10 and 12 working with juveniles and were there until four or five o'clock on Saturday afternoon anyway.

Sen. BOSSIE: Senator Bradley, it's good to see you again. I wanted to ask you Senator if, since you are quite experienced being the Chairman of the Judiciary Committee going on five years, having realized what has taken place over the last few years whether those judges that will not come under this pension system, but which are near full time and they have as we know they are paid by the case load whether you feel that they will be back in in the next special session or the next session to put in for lets say half of what these people will receive because they are doing approximately half the work. Do you think this is a big bag and we are opening it up? Do you think they are going to come back in now with some money for themselves?

Sen. BRADLEY: I think they could obviously. My feeling is that the only line we have to draw now is between full time and part time and deal with those kind of questions this session. I don't think we are creating any bad precedent. It's simply full time judges that ought to be treated the same as far as retirement goes.

Senator Monier moved the previous question.

Adopted.

Senator Bossie requested a roll call. Seconded by Senator Fennelly.

The following senators voted yea: Bergeron, Healy, Provost, Brown, Bossie, Fennelly, Preston.

The following senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Saggiotes, Monier, Trowbridge, Rock, McLaughlin, Keeney, Sanborn, Downing, Foley.

7 yeas 14 nays

Motion failed.

Division vote: 13 senators voted yea. 7 senators voted nay.
Adopted. Ordered to third reading.

(The Chair recorded in opposition to the bill)

SB 52, relative to a transfer of classification in the NH retirement system by a member with more than 25 years service. Inexpedient to legislate. Senator Rock for the committee.

Sen. ROCK: This deals with a minimal number of people. It provides that anyone with 25 years of service or more who transferred its classification in the New Hampshire retirement system shall thereafter be eligible for the benefits which are provided by the new classification. If you have less than 25 years of service transfer to a new classification you retire within five years, your new classification you shall with respect to the service credit under the prior application be entitled to benefits not greater than those who would have been entitled. I know I'm reading the analysis but that is about the most simple way I could explain it. We heard testimony that someone had been mandated into a group, that he had no choice, but under that group he had to accept that particular retirement. It seems to me that anyone can put in 25 years before they are eligible for this and gets into another group with 25 years should certainly be entitled to the benefits of that years of service. That's why the committee recommends the bill ought to pass. I'm sorry inexpedient.

Sen. TROWBRIDGE: There are several bills that are very much alike and I don't blame Senator Rock for being mixed up. Our report is inexpedient to legislate primarily because of this. Someone has been a teacher for 25 years they have been a teacher and been paying in under group one, 25 years out somehow they are made a guard at the prison, it's a very unlikely situation but the little old 3rd grade teacher turns up as a guard at the prison and I'm taking the sympathetic position now one would say now she is a guard and the next year she wants to retire. The question is will she retire with 25 years of group two or will she retire with 25 years of group one plus one year group two. Under the present statute if someone does that even if they have been in 25 years they have to work in the new classification five years more in addition to the new classification before the whole thing back tracks to the begin-

ning. So it's not as if there isn't some remedy in the statute now. There is. If you do this transfer all you have to do is work five years and everything counts backward in group two or whatever you did. Senator Rock was the one who made the motion that it should be inexpedient to legislate because there was a problem here that we are having a lot of people do this double dipping on retirement whereby it will go 25 years then they will do anything they can that last year to get into group two and retire the next day. Therefore getting group two benefits for almost no service in group two. That's what we are trying to stop, there are only two people involved, they do have the remedy that if they work the extra five years they will get backtracked at group two all the way so that it is no real hardship.

Sen. LAMONTAGNE: I rise in opposition to the committee report inexpedient. I personally feel that an employee who has put in 25 years or more of good faithful service to the state of New Hampshire and who was working in one department and then went to another department, that he ought to be entitled to a decent pension and, as you've heard the Chairman of the Finance Committee state, that there is only two persons involved. Therefore, I personally feel that, especially one that I know very well over a period of 23 years that he has been a faithful employee of the State of New Hampshire and at one time he was on the state police, and then later on changed his classification and therefore now he is not eligible to get his retirement of 25 years of service. I personally feel that he is entitled to it and should get it and the two ought to be able to get this. I'm urging that we defeat the committee report of inexpedient.

Sen. TROWBRIDGE: Now, Senator, you understand that it's not when you move your job, it's only when you move in the classification from group II to group I. You can move from highway to education to anything and that's not involved. You understand that? It's only when you move from group II to group I or group I to group II. Secondly, you understand that your friend can even if it hasn't been 20 years once he has made the switch over from group II to I or I to II only has to wait five years under present law and he gets credit all the way back. It's not that he doesn't get a decent retirement. It's not that he doesn't have all retirement benefits it's just that he has to wait five years after he makes the change. Do you understand that?

Sen. LAMONTAGNE: Yes. I understand that clearly.

Sen. TROWBRIDGE: Well, then what's the problem with your friend. Why can't he go the extra five years? Everybody else has done it, why do we have to make a special exception?

Sen. LAMONTAGNE: Mr. President, members of the Senate, personally I clearly understand the five years but I don't know that the way the point has been put in here now is different in what I thought I understood somehow I wish that it could be cleared up different so therefore Mr. President I'd like to make a motion.

Senator Lamontagne moved that **SB 52** be made a special order for Thursday, April 28 at 1:01 p.m.

Adopted.

SB 125, utilizing sweepstakes commission funds to provide aid to public libraries. Inexpedient to legislate. Senator Sanborn for the committee.

Sen. SANBORN: Mr. President we listened to testimony on this, and the one half of one percent that would be going to the state library for distribution among the libraries in the state amounted to four or five thousand dollars and it is such a small amount. The various libraries, like the Philbrick James, around this state and many other libraries, they would only be getting pennies. They wouldn't be getting a very substantial amount of money. Secondly, the committee felt that this fund was established primarily for education in the various schools and it does amount to something to the schools and to break this would be identical to breaking the highway fund to use to put wings on airplanes or some such stupid idea and the committee felt that this should be kept within it's original purpose of the sweepstakes, and provide to education throughout the state. Basically, the monies that do go to the various school districts a good amount of it is used to maintain school libraries anyway, so it is reaching the spot where the sponsor evidently wanted it to go anyway.

Adopted.

SB 167, relative to the enforcement of court ordered child

support payments. Ought to pass with amendment. Senator Foley for the committee.

Amendment to SB 167

Amend RSA 99:14 as inserted by section 4 of the bill by striking out same and inserting in place thereof the following:

99:14 Wage Assignments. Notwithstanding any provisions of law to the contrary, the wages of any state employee or official may be assigned or attached to satisfy an order of the superior court relative to payments for child support entered pursuant to RSA 458:35-a. The clerk of the court entering such order, or the probation department or the division of welfare shall forward a copy of such order to the person responsible for preparing the wage manifest for the employee, who shall comply with such order within 15 days of the receipt thereof.

Sen. FOLEY: **SB 167** seeks to remove from exempted status, the wages to state employees. At the present time, state employees enjoy an enviable status...not in the amount of money that they receive perhaps, but in the fact that their wages are protected. If they do not support their children, they are exempt from having their state pay attached. In fact, sometimes the state is forced to support the children under the welfare system while the employee gets off free. Another group of people in the United States had previously enjoyed this status...military personnel were exempt. However, in 1975, federal legislation has passed and which now permits garnishment or recouping of funds in regard to military personnel. This bill would put state employees in the status with the rest of the state so that there would be no discrimination. The amendment simply adds a phrase...page two...section 99:14 wage assignments. Fifth line down, the clerk of the court entering such an order, or the probation department, and the new words...or the division of welfare shall forward a copy of such an order to the person responsible, etc. This bill will help the welfare department recoup monies which have thus far been exempt from attachment. There was no one at the hearing in opposition to this bill...The New Hampshire Division of Welfare had one of its employees, Mr. Sinclair appear in favor of this bill. We urge passage.

Amendment adopted. Ordered to third reading.

SB 117, relative to the statute of limitations on an action for paternity. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: The Division of Welfare currently accepts 400 new AFDC cases each month. The majority of these new cases involve children born out-of-wedlock. It is estimated that 72% of these cases are without court orders for child support and 22% of the children have not had their paternity established. Half of these children without paternity are over the age of one and consequently, exceed the existing statute of limitation for establishing paternity.

In addition, approximately 19% of the existing or current caseload contain children whose paternity has never been established, and 88% of these children are over the age of one.

The time limitation in establishing paternity, one year, does not provide sufficient time for the division to (1) identify cases requiring action to establish paternity, (2) investigate the allegations of paternity and obtain necessary support documentation, and (3) take the necessary legal steps to have paternity adjudicated. This process may be accomplished in as short a time as one month, but experience today indicates that 4-6 months is required before a paternity situation is resolved.

If a child came onto public assistance after six months of age, it becomes increasingly more difficult for the division to take effective action within the time limitation now imposed.

A study conducted by the Planned Parenthood Federation of America disclosed that 72% of mothers who first gave birth at ages 15-17 were receiving welfare. Given this high incidence of welfare reliance for this age group, it is not unrealistic to assume that the mother and child will remain in the mother's family environment for some time after the birth of the child.

In most situations, the mother and child may not become a recipient of public assistance during the child's first year of life. The statute of limitation on establishing paternity has already expired by the time half of these children become dependent on public assistance.

A child without paternity, denies the child his right to having parentage established, his right to benefits accruing to this parents, such as veteran and social security survivor, educa-

tional and disability compensations, as well as health and life insurance protection, and participation in estate settlement.

The State also has a vested interest in the establishment of paternity. Paternity is virtually a prerequisite to establishing legal liability for support. The State should not be charged with the total responsibility for the care and support of these children. Enacting a two year statute of limitation for initiating paternity proceedings will provide greater opportunity for the State to recover, at least partially, the cost of support provided minor children.

Adopted. Ordered to third reading.

SB 100, relative to removing, defacing, altering, changing, destroying, obliterating or mutilating identifying numbers of machines or electrical or mechanical devices. Inexpedient to legislate, Covered by other legislation. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President **SB 100** is the subject matter covered by HB 102, which the Senate has already acted on.

Adopted.

HB 468, an act opening Christine Lake in the town of Stark to ice fishing. Ought to pass. Senator Healy for the committee.

Sen. HEALY: Mr. President, from what I understand there was no protest at all at this meeting. The lake has been closed to ice fishing over a period of time, and the Fish and Game Commission endorsed a sportsman's plea to reopen that lake to ice fishing.

Adopted. Ordered to third reading.

SCR 3, establishing a special committee to study tax reform at all levels of government. Ought to pass.

Senator Smith moved that SCR 3 be made a special order for Tuesday, May 3 at 2:01 p.m.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, April 27 at 2:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 340, abolishing the police commission in Claremont.

SB 131, relative to the sales of furnace and stove oil.

SB 149, protecting the welfare of certain adults by providing protective services.

HB 288, relative to emergency medical technicians.

SB 16, relative to the extent of medical treatment which a licensed podiatrist may perform.

SB 155, requiring all mobile telephone service companies and radio paging service companies doing business in the state to be regulated by the public utilities commission.

SB 146, relative to the posting of a bond or certification of assets by every manufacturer of mobile homes to insure warranties.

SB 7, establishing retirement and permanent disability benefits for district court justices.

SB 167, relative to the enforcement of court ordered child support payments.

SB 117, relative to the statute of limitation on an action for paternity.

HB 468, an act opening Christine Lake in the town of Stark to ice fishing.

Adopted.

Senator Provost moved to adjourn at 4:45 p.m.

Adopted.

Wednesday, April 27

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Open our eyes Lord, that we may see the beauty all around us and see in it Thy handiwork. Let all lovely things fill us with gladness and fill our hearts with true worship.

Give us this day a strong sense of Thy presence beside us.
Through Jesus Christ our Lord.

Amen

Senator Hancock led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 247-284 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 247, relative to the limitation on receiving assistance from the federal government and the state for sewage disposal facilities. (Lamontagne of Dist. 1—To Environment)

SB 248, relative to the taking of alewives and river herring. (Foley of Dist. 24; Preston of Dist. 23—To Recreation and Development)

SB 249, relative to the definition of rule in the administrative procedures act. (Bossie of Dist. 20; Rep. O'Connor of Strafford Dist. 18—To Administrative Affairs)

SB 250, relative to the funding of regional vocational school tuition and transportation from the sweepstakes fund and

making an appropriation therefor. (Monier of Dist. 9—To Education and Finance (Joint))

SB 251, relative to the housing finance agency. (Monier of Dist. 9—To Administrative Affairs)

SB 252, relative to residential real estate exemption for persons totally disabled under the social security act. (Jacobson of Dist. 7; Rep. LaBonte of Merrimack Dist. 12—To Ways and Means)

SB 253, relative to the examination, certification and registration of arborists and making an appropriation therefor. (Hancock of Dist. 15—To Administrative Affairs)

SB 254, eliminating the one year full pay provision for totally disabled classified state employees. (Monier of Dist. 9—To Finance)

SB 255, relative to female lobsters. (Foley of Dist. 24; Preston of Dist. 23—To Recreation and Development)

SB 256, relative to the reporting of lobster catch. (Foley of Dist. 24; Preston of Dist. 23—To Recreation and Development)

SB 257, relative to commercial salt water fishing. (Foley of Dist. 24; Preston of Dist. 23—To Recreation and Development)

SB 258, permitting veterans of the Vietnam Conflict the use of armories for meetings. (Saggiotes of Dist. 8—To Administrative Affairs)

SB 259, requiring permits for camp trip leaders. (Smith of Dist. 3—To Recreation and Development)

SB 260, relative to licensing psychologists and regulating the practice of psychology. (Smith of Dist. 3—To Public Institutions)

SB 261, relative to the service of writs and other processes. (Bradley of Dist. 5—To Judiciary)

SB 262, creating a New Hampshire athletic trainers board. (Sanborn of Dist. 17—To Executive Departments, Municipal and County Government)

SB 263, establishing a procedure to discontinue certain capital reserve funds. (Bradley of Dist. 5—To Executive Departments, Municipal and County Government)

SB 264, permitting political subdivisions which choose coverage under the unemployment compensation law (RSA 282) to either elect the reimbursement or contribution method of payment. (Bradley of Dist. 5—To Insurance)

SB 265, concerning the selection and exemption of jurors. (Smith of Dist. 3—To Judiciary)

SB 266, concerning a fee to be paid to the register of probate at the filing of the final account for certain estates. (Saggiotes of Dist. 8—To Judiciary)

SB 267, establishing a marketable record title act. (Bradley of Dist. 5; Bossie of Dist. 20—To Judiciary)

SB 268, relative to the rights of law enforcement officers. (Bossie of Dist. 20; Fennelly of Dist. 21; Healy of Dist. 16—To Judiciary)

SB 269, relative to school committee elections in the city of Manchester. (Bossie of Dist. 20; Provost of Dist. 18; Sanborn of Dist. 17—To Manchester Delegation)

SB 270, relative to municipal immunity. (Lamontagne of Dist. 1—To Executive Departments, Municipal and County Government)

SB 271, exempting certain governmental entities from the payment of motor vehicle road tolls. (Sanborn of Dist. 17—To Transportation)

SB 272, requiring notification of the owners of certain abandoned motor vehicles. (Monier of Dist. 9—To Transportation)

SB 273, establishing guidelines for the establishment of rates for nursing homes under the medical assistance program. (Rock of Dist. 12—To Public Institutions)

SB 274, relative to licensing insurance appraisers. (Lamontagne of Dist. 1—To Insurance)

SB 275, providing for mandatory distribution of instructions on safely installing solid fuel heating appliances. (Monier of Dist. 9—To Energy and Consumer Affairs)

SB 276, concerning the penalties for using unapproved insurance policy forms. (Rock of Dist. 12—To Insurance)

SB 277, amending the state industrial development act. (Rock of Dist. 12—To Executive Departments, Municipal and County Government)

SB 278, relative to exempting certain motor vehicles from motor vehicle registration fees. (Rock of Dist. 12—To Transportation)

SB 279, relative to group health insurance coverage for certain retired state employees. (Rock of Dist. 12—To Insurance)

SB 280, relative to motor vehicle inspections. (Lamontagne of Dist. 1—To Transportation)

SB 281, restricting the length of certain loads on trucks. (Lamontagne of Dist. 1—To Transportation)

SB 282, relative to the use of binder chains on certain motor vehicles transporting construction equipment. (Lamontagne of Dist. 1—To Transportation)

SB 283, relative to motor vehicles declared to be totally damaged. (Poulsen of Dist. 2; Rock of Dist. 12—To Insurance)

SB 284, establishing a construction warranty law. (Provost of Dist. 18—To Executive Departments, Municipal and County Government)

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 472, 647, 732, 779, 662, 740, 762, 764, 894, 495, 703, 457, 648, 718, 720, 850 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 472, relative to the regulation of small loans. To Banks.

HB 647, repealing the penalty for neglecting children. To Judiciary.

HB 732, eliminating the permits and licenses issued for up to 4 consecutive months per licensing year. To Ways and Means.

HB 779, relative to guardianship of residents of Laconia state school. To Judiciary.

HB 662, amending the methods of giving proof of financial responsibility. To Transportation.

HB 740, relative to the use of emergency lights. To Transportation.

HB 762, prohibiting the towing of certain vehicles. To Transportation.

HB 764, expanding the penalty provision relative to an overloaded vehicle. To Transportation.

HB 894, providing opportunity in public education without discrimination. To Education.

HB 495, relative to a charge for checks returned to a city or town as uncollectible. To Executive Departments.

HB 703, establishing a dog control law. To Recreation.

HB 457, redefining the term "motor truck" in the motor vehicle laws. To Transportation.

HB 648, clarifying certain penalty provisions in the uniform motor vehicle certificate of title and Anti-Theft Act (RSA 269-A). To Transportation.

HB 718, relative to the permitted width of buses on state highways. To Transportation.

HB 720, increasing the penalty for operating an off highway recreational vehicle on a railroad right-of-way, airport runways and cemeteries. To Recreation.

HB 850, requiring each school district treasurer to pay out moneys belonging to the district upon orders of the duly empowered representatives of the school board. To Education.

INTRODUCTION OF SJR

First and Second Reading and Referral

SJR 3, requesting the judicial council to study the problems of collection on judgments and issuance of executions and to propose corrective legislation. (Bradley of Dist. 5—To Judiciary)

COMMITTEE REPORTS

HB 263, relative to emergency generator at the state prison. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: Basically what this bill does in the appropriation of the capital budget of two years ago raised appropriated money to refurbish the present generator at the state prison. They now find that a new more high powered generator that can take care of the entire prison may be purchased for the price of \$55,000, that was originally appropriated to refurbish the existing generator that can only take care of 40% of the prison power requirements and all this bill does is change from refurbishing to purchase a new generator. There is no change in money or anything. The old generator will be removed by their own forces at the prison and transported out to the Shea farm and they anticipate that in time they could refurbish it with their own forces and have an

emergency generator at the Shea farm as well as one at the prison that can take care of the power needs of the prison.

Adopted. Ordered to third reading.

SB 164, to amend the charter of St. Mary's-in-the-Mountains. Ought to pass. Senator Smith for the committee.

Sen. SMITH: Mr. President, this bill amends the charter of St. Mary's in the Mountains in two respects. One, it allows for the education of boys as well as girls and secondly, the board of trustees used to have a quorum of three and this makes it now a majority of the trustee. I hope the Senate will go along with the committee report.

Adopted. Ordered to third reading.

HB 569, amending the charter of Coe-Brown Northwood Academy. Ought to pass with amendment. Senator Sanborn for the committee.

Amendment to HB 569

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

amending the charter of Coe-Brown Northwood Academy.

Amend the bill by striking out section 1 of the bill and inserting in place thereof the following:

1 Holdings Limitation Increased. Amend 1867, 123:2, as amended by 1939, 272:1 by striking out in lines 6 and 7 the words "not exceeding five hundred thousand dollars" and inserting in place thereof the following (without limitation) so that said section as amended reads as follows:

2 Said corporation is hereby empowered to establish and maintain, in Northwood, in the county of Rockingham, a school designed to encourage and promote the diffusion of knowledge in all the branches of academic education; and, for that purpose, may acquire and hold, by gift, bequest, or otherwise, real and personal estate without limitation; may

erect suitable buildings, employ proper teachers and assistants, and establish all necessary by-laws and regulations for their government, and exercise any other power proper to carry into effect the object of this act; provided, said by-laws and regulations shall not be repugnant to the constitution and laws of this state.

Sen. SANBORN: Mr. President, basically the amendment may be found on page 19 of todays report. One of the things that may seem strange but when the bill was originally written Coe-Brown Academy came out with a small A and one thing this amendment does is change the academy to a proper noun with a capital A. The second part of the amendment is your original bill, the bill said not to exceed one million dollars confiring with the trustees of the academy that was before us when we had the hearing and, looking at the bill that has just previously passed this Senate, Mount St. Mary of the Mountains, we noticed that theirs said without limitation. At the request and suggestions to the trustees they agreed that it would be much better if theirs read the same as Mount St. Mary of the Mountains without limitation. The reason that they had run into a problem relative to the funds and so forth that they could hold for the maintaining of this private academy down in Northwood is that their original grant by law said \$500,000. Well the town of Northwood just went through a reevaluation and as once was said a man went to bed one night in the process of a reevaluation he went to bed as a poor farmer and woke up the next morning as a rich land owner. That is exactly what happened to Coe-Brown Northwood Academy. They went to bed in the evening the trustees as a poor struggling academy and came to the next morning as rich landowners because all property values doubled, tripled and more than that in the town of Northwood last year. Accordingly they thought that one million dollars is going to be good enough to struggle along with but the way property values are now we suggested to them and they agreed with that without limitations would make it much easier on the trustees of the Coe-Brown Northwood Academy and we urge the passage of this amendment and the bill.

Amendment adopted. Ordered to third reading.

HB 275, relative to the membership of the legislative utility

consumers' council and expanding the council's jurisdiction. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to HB 275

Amend RSA 363-C:1, III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. "Utility" means every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court, except municipal corporations operating within their corporate limits, owning, operating or managing any plant or equipment or any part of the same for the conveyance of telephone messages or for the manufacture or furnishing of light, heat, power or water for the public, or in the generation transmission or sale of electricity ultimately sold to the public.

Amend RSA 363-C:2 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

363-C:2 Legislative Utility Consumers' Council Established. There is hereby established a legislative utility consumers' council which shall consist of 8 councilors, 4 of whom shall be senators and appointed by the president of the senate, and 4 of whom shall be representatives and appointed by the speaker of the house, whose term of service on the council shall be concurrent with their term in the general court. No more than 2 councilors shall be drawn from the majority party in the senate and no more than 2 councilors shall be drawn from the majority party in the house.

Amend RSA 363-C:8, III as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

III. To petition for, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs and consumer services before any board, commission, agency, court or regulatory body in which the interests of utility consumers are involved and to represent the interests of such consumers.

Amend RSA 363-C:9 as inserted by section 4 of the bill by striking out same and inserting in place thereof the following:

363-C:9 Consumer Advocate; Operations. Operations of the council shall be carried out by a consumer advocate who shall be appointed by the councilors. The consumer advocate shall be a qualified attorney admitted to practice in this state who shall hold office for an indefinite term, at the pleasure of the council, at a salary established by the council. The consumer advocate shall be empowered to petition for, initiate, appear, or intervene in any proceeding concerning utility rates, charges, tariffs and consumer services before any agency, board, commission, court or regulatory body in which the interests of utility consumers are involved and to represent the interests of such consumers. Nothing in this chapter shall be construed to exclude any other party, attorney or representative for any party from participating in such proceeding. The consumer advocate shall employ a deputy and such other assistants, clerical and administrative staff as necessary and within the limits of funds available for that purpose. The deputy and all other staff shall serve at the pleasure of the consumer advocate, at a salary established by the council.

Sen. BOSSIE: Mr. President the amendment is on page 17 of today's calendar. As you probably have heard the Speaker of the House got involved with this bill and we have been fighting all session to make the balance on the Legislative Utility Consumers' Council at 4 republicans and 4 democrats preferably and suggested 2 republicans and 2 democrats from each chamber. Well this has been a very simple process and certainly the President of the Senate has complied with both the spirit and intent of the law. The Speaker of the House goes in a different course and he has had us embroiled in this problem as to the makeup of the council. When this bill came over from the House they tacked on an amendment to provide 9 members of the council 5 from the House and 4 from the Senate. Well as far as I'm concerned we are an equal branch of the legislature, we are entitled to a 50% representation or more on everything and so what this amendment does is basically bring it back to 8 members to the council, 2 members from each party and each body. It also further clarifies on page 18 III exactly what the Consumer Utility Council is to do. It

includes the telephone company. We had within the committee a discussion, a confrontation between ourselves, as to exactly what is meant and everybody wants to make it clear and certainly we aren't going to want to be in the business of running the telephone company or the public service company or any other utility in our State. But we did feel that the consumers of New Hampshire have an interest in water rates, they have an interest in electric rates, in telephone rates as well as tariffs and consumer services connected strictly to those matters. So we would ask you to affirm our decision and our amendment that's on page 17. We feel that it is a proper one and we think it's restrictive at the same time much more all inclusive than the way the bill originally passed last year. This is not expanding at all, it just applies it to water and telephone and it would also bring back the number on the council to 8.

Sen. BROWN: What your saying Senator, is that consumer services as worded in the amendment pertains only to rates, charges and tariffs?

Sen. BOSSIE: Yes sir. Let me state for the record, for the legislative intent, that with regards to consumer services it is the intent of the committee, and myself as a chairman of that committee, that the consumer services before any board as referred to in this amendment applies to the rates, charges and tariffs for which our consumer advocate would be concerned and we don't intend to expand the council any more than those three directions.

Sen. ROCK: Mr. President, members of the Senate, I rise in support of the amended bill. I believe the amendment clarified many things or problems. I'd like to not only at this point complement the members of the Senate who've served on that legislative council, but the members of the House as well. It has worked indeed as a fine nonpartisan hard working body for the consumers of the State of New Hampshire. I think this bill will do a great deal to straighten out a misinterpretation that exists in the mind of at least one person as to what we mean by equal representation on a non-partisan basis.

Amendment adopted. Ordered to third reading.

SB 138, relative to an alternative form of county govern-

ment. Ought to pass—Minority. Inexpedient to legislative—Majority. Senator Hancock for the minority. Senator Brown for the majority.

Motion of “ought to pass.”

Sen. HANCOCK: Mr. President, members of the Senate, this is permissive legislation which would allow the county government similar to the present councilor management form of government, and in the opinion I think of two members of the committee, I believe Senator Preston will join me in this report, it was our belief that this should be left to the county to decide whether or not indeed they wanted to accept this form of operation and if any of the members have specific questions on the particulars of the bill I wish they would refer them to Senator Bradley whose bill it is.

Sen. BRADLEY: Mr. President, this is a bill that some of the Senators may recognize. It was before us the session before last. I believe it passed this body without descent. It went over to the House and referred to study, and actually did go to serious study and the House Municipal and County Government committee worked on it extensively and I met with them many times. It was introduced last time with my agreement as a House bill but ended up in the same place again getting further study and further revision of a few of the fine points. What this bill does is to give each county the option to adopt a different form of government for governing the county. It's a form of government which is roughly parallel to the council manager form of government that a number of cities have. This would only be adopted if the legislative delegation from the county, in the first instance, voted to put the question to a referendum, the question would then go to a referendum in which 60% of the people in the county would have to vote in favor of it. In that event, the county would then have that alternate form of county government. The bill provides that the county council would be directly elected to serve and govern the council would take the place of the present county delegation and the county commissioners to the extent the commissioners are policy makers. The council would in turn hire a full time professional administrator who would be the county manager. I think this would cure many of the problems that we now see in county government where the official policy making body, the appropriating body, made up of House

members who really consider their county function as secondary and of second importance to their main job down here in Concord. This would, I feel, bring the county government out into the open into public scrutiny and allow for debate of county issues in a campaign and could only work for more efficient and more responsive county government. I don't see how anyone can be hurt by this bill. I think we have worked out all the bugs in it. It's been scrutinized over many years and it's purely optional. There has been a fair amount of interest expressed in this bill in my own county. I have some hope that if this bill is put on the books that my county would at least seriously consider it and perhaps adopt it, and therefore I urge you to pass this enabling legislation.

Sen. SANBORN: Senator, I'm kind of interested here in 24:A:7 Election of Councilors. It says that the counties with districts will elect 3, 5, 7 councilors for each district. Counties without districts elect 9, 15, 21 councilors at large. For instance I didn't know that counties had been broken up into districts yet.

Sen. BRADLEY: Yes they have. For the purposes of county commissioners. I think all but maybe one county have county commissioner districts. I think Carroll County is the one.

Sen. SANBORN: Well, Senator, you mentioned Coos, which would be an interesting thing without having representative districts, and as I read this 9, 15 or 21 councilors at large and with Berlin the dominant area in Coos county I could see probably all 21 councilors coming out of the city of Berlin. You follow my reasoning.

Sen. BRADLEY: I guess I see your point but I think that is up to the counties whether or not they divide themselves into districts if they haven't already done so. They could if they wanted to move to this form of government. I suppose in any county that doesn't have districts you have the same problem with three of the present commissioners perhaps coming from the largest community.

Sen. SANBORN: I had read something about the probability of this bill some other place and what I had read about it gave the idea that each one of these councilors might be from a representative district, not the present councilor district. Did any of the committee give any thought to the representative district which breaks each county up considerably more than this method? It doesn't allow the big towns to dominate

but give each one of the small towns a little bit of a break in having members on that council?

Sen. BRADLEY: That's never been a problem on any of the committees that I've worked with on this have concerned themselves with nor have I concerned with it. Again, I don't see any. I have no particular strong objections to the concept. The thing can be broken down into districts, and I guess my feelings would be that if a county wanted to move in this direction I would see no problem with them adopting as many districts as they want. What we are trying to do is work with the structure which most of the counties do have, so we corporated those into the scheme. We didn't have anything to work with. I'm not against your idea; but it just hasn't worked out nor do I think it can be at this stage.

Sen. SANBORN: As I remember the bill that we passed last session, I think it was, as I remember that bill it gave the representative districts, I say this because strange things have happened in Rockingham county. All the county officials and so forth forgot completely that there is three towns in that northeast, northwest corner of the county. They don't realize that Nottingham, Northwood and Deerfield exist in any way, shape, or manner and this is the only way we could get a person on the council if it was in the representative district.

Sen. BRADLEY: Well I guess the only response I would make is that if your county got interested in this it would seem to be a simple thing for that division to be made before this goes into effect.

Sen. MONIER: The committee, as a majority, felt this bill was inexpedient to legislate for several reasons and I therefore am filling my obligations as committee chairman to bring that to the attention of the Senate. There were several different comments that were brought up at that particular point of time. One or two of which was that the sponsor and Senator Bradley was there and did respond to these to the effect that there have been several attempts to do this and one of the questions that the committee raised among themselves in discussing the bill afterwards for the simple fact was that we've offered only one particular form of possibility to the county for consideration, that of the councilors, and there are some other forms, and as to whether this ought to be a charter revision, and the second major point that was brought forth by the committee in it's discussion of the bill was that by the county manager you would remove one more time from the personnel

and the voter the daily operation. One the basis of both of these kinds of comments the majority of the committee is in opposition to the current motion.

Sen. BRADLEY: I just want to respond to one of the points Senator Monier raises and this is the question of why just one alternate form, and it's a perfectly good question and there are indeed other forms the county governments take around the country and might be adaptable to New Hampshire. My only response to that is that it's taken me 5 years to get to this point with one alternative where I think I've satisfied the various people who have studied this, that we've worked out the bugs in it sufficiently to put it on the books. I have nothing against trying another alternate form but I don't want to wait another five years before I can work out the bugs in the next alternative. This is the alternative that the people that I have worked with feel is the best alternative or the one they are most interested in. Therefore my feeling is let's give the people who want it the opportunity to consider this alternative. If someone wants to come in another session with an extra alternative I'll work with them and suggest it to them.

Sen. MONIER: Senator, do you recognize that I am not picking on this thing I'm just trying to present what was brought out in the committee; but I do have one or two questions that bother me a little bit and you and I talked about them at the committee meeting and I would just like to reiterate them here on the floor. Number one is that if a county or two counties should now adopt this form would you give me some kind of indication of what affect this would have on the other counties that do not adopt this particular form. Could we not possibly wind up with two situations one in which we might wind up over a long period of time with counties with different forms of government throughout the state and two, with counties with a singular form of government different from what is now there, would this not interfere with the interactions of these counties the operations? And the budgeting as well as state funding and so forth?

Sen. BRADLEY: I don't see any reason why it should any more than it does at the municipal level, the town and city level. After all most of our cities have somewhat different forms of government although several do have something that parallels this; but the cities have different forms of government. Some of the towns such as my own town has a hybrid form of town government under a special charter like

just as many others. So I see nothing wrong in subdivisions at a level having different forms of being administered. It happens elsewhere it seems to me as long as you have the same powers now existing transferred to the new form, the new form exercises those powers and would not present any difficulty.

Sen. MONIER: Then what you are saying is that if we pursued this to it's end result we could wind up as you indicated we would be glad to work with other forms if somebody wanted them. We could wind up with 10 different forms of county government within the 10 current counties now existing.

Sen. BRADLEY: That's conceivable but I don't think that's at all likely. I would not be bothered by that if the people of those counties had selected the form of government which they wanted and particularly as provided in this bill where you have the option to go back if you don't like the form of government you choose.

Sen. MONIER: Would it not have been better to have allowed this to be a referendum with respect to the kind of county government and let them use that and offer them some alternatives rather than one.

Sen. BRADLEY: Well, again I think this goes to the other point, in an ideal world perhaps you have instead of having a bill that's 17 pages you've got a bill that's 80 pages and provides three or four different alternatives within it, and I would think that would be fine but that's a long project. I suggest to anyone to try to get that kind of bill in that kind of shape and, at least in my own county, there is no interest in other forms of county government. There is an interest in this form of county government and I'd like to make it available to my county and perhaps some other counties that have expressed an interest in it.

Sen. LAMONTAGNE: Senator, I just want to make sure about my county, and at the same time, I hope I didn't mislead you when I said that my area is a district. Now I want to know what affect this will have on Coos county. Now Coos county we have a district where the people in Berlin will vote for the first district and the people in the area of Lancaster in the second district and the third commissioner is elected in the Colebrook area. What affect will this have in the system we have in Coos county?

Sen. BRADLEY: Well, first of all it will have no affect whatsoever unless the Coos delegation from the House votes

to put it to a referendum. They have to vote to put it to a referendum. They put it to a referendum, they would have to decide, incidently, when they did that, whether the number of counselors would be 9, 15 or 21. Then if 60% of Coos county voted they wanted this form of government they would get it and then you would have lets say the number proposed was 9, then in one of your council districts it would be 3 councilors, 3 and then 3. So it would be 3 from each of the 3 districts to get your 9 and that's the kind of government you'd have; but you wouldn't have it unless your people and your delegation wanted it.

Sen. POULSEN: Mr. President, I rise in support of the inexpedient motion. I do approve the fairness the basic fairness of the bill. I mostly disapprove of the single czar of a county, a county commissioner, the same reason I disapprove of a town manager. I like the three men operating, I think they are a lot more reactive to the public the same as three selectmen are more responsive. I don't like the czar. I'm awfully afraid of bureaucrats. That's my basic reason for not wanting the bill.

Sen. SAGGIOTES: Senator, I'm just following up the question that Senator Monier asked on consideration of other forms where you just have one choice here and I was wondering if you considered a form of government that would probably be more popular to majority of the people at least in my area whereby the so called manager who we might call a county president would be elected by the people so that he would be directly responsible to the people. Did you give any consideration to such a form of government?

Sen. BRADLEY: In the general sense yes; but again, the response is the same. Right now there is no alternative. Everybody has the same prescribed form of government. I've tried to develop one alternative, if I had the time, the talent and the resources I would have been delighted to develop three alternatives or four alternatives. I have not done that. I would like to take the first step in a direction which I think would perhaps give some counties a chance to have a more open responsive responsible form of county government. I have nothing against a county trying to work out a form of government as you suggest. Because I can't deliver all those things, it doesn't seem a good reason to vote against the one I have been able to come with.

Division vote: 10 senators voted yea. 12 senators voted nay.

Motion failed.

Senator Bradley moved to lay **SB 138** on the table.

Division vote: 14 senators voted yea. 6 senators voted nay.

Adopted.

SB 183, the establishment of village districts. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This bill, in order to establish a village district increases the number to form a petition to do so from 10 to 25.

Adopted. Ordered to third reading.

SB 156, relating to the director of divisions in the department of resources and economic development. Inexpedient to legislate. Senator Monier for the committee.

Sen. MONIER: Mr. President, this bill which is the President's bill, was put in for the Director of Resources and Economic Development. It does two things that the committee felt should not have been brought in. The first is, it changes in terms of the legal terminology, the role and the position of the director of forest lands and the director of parks and recreation from what they currently are in the statutes, which is that they are nominated for appointment by the Governor and Council to these positions to where it says the Commissioner of DRED will appoint and then subject to Governor and Council for approval, that doesn't sound like any big difference but I'm informed by legal counsel and the Attorney General and otherwise that one of the things this does do is it makes a significant difference in terms of the responsibility for the performance evaluation and if necessary the firing of the persons involved in this. You will note that the bill also says that in the case of the appointment of the Division of Economic Development it remains the way it is at the present time. So that there are really two types of considerations here. One is the changing in the authority of that particular position. Most of us or some of us had the feeling that this was directly related to the supreme court decision in recent cases with respect to Governor and Council actions in terms of state

unclassified employees. The second is that it also makes those particular positions subject to control of the director in terms of serving at the pleasure of. These are two distinct changes that I think this is not the era that they ought to be done in, specifically with relationship to all of the things that are going on with respect to this business of the authority of hiring, holding of hearings etc. On that basis the committee as a majority brought the bill out as inexpedient to legislate.

Sen. HANCOCK: This bill came in at the request of the Commissioner of the Department of Resources and Economic Development. Specifically, what it does is protect two positions, the Director of Forestry and Land and the Director of Parks. Both of these persons are extremely able professionals. Ted Natti has filled that position for a number of years, as has George Hamilton. In a sense, this removes those two positions from political consideration and makes the person responsible as he is now to the Commissioner, but it also makes it impossible for the Governor and Council to discharge these professionals. So that, in my opinion, this is a good move, it does protect two important positions which are vital to the environmental well being of the State of New Hampshire and I would recommend that you vote against it. I mean for it. Against the committee report.

Division vote: 9 senators voted yea. 11 senators voted nay.
Motion failed.

Senator Monier moved to lay **SB 156** on the table.

Division vote: 10 senators voted yea. 11 senators voted nay.

Motion failed.

Motion of ordering **SB 156** to third reading.

Adopted.

(Senators Monier, Poulsen, Sanborn, Healy, Rock, Provost, recorded in opposition)

SB 151, establishing the New Hampshire crime commission and making an appropriation therefor. Ought to pass with amendment. Senator Sanborn for the committee.

Amendment to **SB 151**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT
establishing the New Hampshire crime commission.

Amend RSA 7-B:1 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

7-B:1 Purpose. The purpose of this chapter is to create a definable continuing agency in the executive branch to function as the state planning agency for the state of New Hampshire in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Omnibus Crime Control Act of 1970, the Crime Control Act of 1973, and the Crime Control Act of 1976, and in accordance with the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, and any act or acts amendatory or supplemental thereto.

Amend RSA 7-B:6, II (h) as inserted by section 6 of the bill by striking out said subparagraph and inserting in place thereof the following:

(h) To establish a statistical analysis center which shall provide for the analysis, collection and dissemination of information and statistics concerning the administration of criminal justice and juvenile justice in New Hampshire and elsewhere. Said center shall be established in accordance and compliance with federal guidelines.

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Revocation of Executive Orders.

I. The state of New Hampshire's governor's commission on crime and delinquency, as established by executive order number 73-4, as amended shall be terminated on the effective date of this act. All of its books, records, reports, equipment, property, accounts, liabilities, and all funds subject to its control shall be transferred to the New Hampshire crime commission as established by this act. The employees of the state of New Hampshire governor's commission on crime and delinquency, as established by executive order number 73-4, as amended shall be transferred with the same status to the New Hampshire crime commission as established under this act.

All regulations promulgated by the governor's commission on crime and delinquency as established by executive order number 73-4, as amended shall be deemed to be regulations of the New Hampshire crime commission.

II. Executive order number 75-13, as amended, relative to the establishment of a statistical analysis center as a part of the governor's commission on crime and delinquency, is hereby revoked.

Amend section 3 of the bill by striking out same and renumbering sections 4, 5 and 6 to read as

3 , 4 and 5 respectively.

Sen. SANBORN: Mr. President, you will find the amendment on page 16 of the calendar. Basically the amendment does two or three various things. In paragraph 7-B:1 Purposes, it has the words as amended by the Governors Crime Control act of 1970, 1973 and 1976 and in accordance with and continues on the provisions of the juvenile justice and delinquency prevention act of 1974. Further on in B:6 II(h) we reemphasized to establish a statistical analysis center to provide for the analysis, collection, dissemination of information and further we added said center will be established in accordance and compliance with the federal guidelines. Further on under 75-13, executive order number 75-13, as amended relative to the establishment of an analysis center as part of the Governors Crime Commission on Crime and Delinquency is hereby revoked. That is added. In the bill as you see it before you on page 11 you will see 6 and 3 appropriation, the entire appropriation is wiped out. The reason being we received federal funds. It's already in the budget for the Crime Commission and, in this way, by wiping this out, if we no longer receive the funds from the federal government we no longer will have a Crime Commission. So actually the way it reads now this establishment of a Crime Commission that is required by the federal government if the federal government doesn't pay for it it isn't going to cost the State of New Hampshire anything.

Amendment adopted. Ordered to third reading.

SB 133, providing that the state shall issue bonds for the state's share of 20 percent of the costs now paid by a municipi-

pality and reimbursed by state for water pollution projects and making an appropriation therefor. Inexpedient to legislate. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: On **SB 133** the proposal came in from some of the municipalities that instead of the state doing what it does now the state should actually take out a separate bond issue for the 20% share that they put up for any water pollution project. We had very good testimony on this I thought. We had a mixed bag, and at the present time when a city or town goes out on a water pollution project the city or towns undertakes the entire bond issue, that bond issue can contain items that are covered by that. The town of Jaffrey would issue the entire bond issue. The entire bond issue is now guaranteed by the state so they get their triple A rating across the board for both their local share, state share and the federal share. It also puts that umbrella complete triple A rating behind the non-allowable cost that may be included in a thing. Part of the project may not be federally funded but it gives the entire umbrella a triple A rating. Under this provision of **SB 133** what would happen is that they would ask the state to bond it's own share, the town would bond it's own share, plus the federal share, and in that way you wouldn't have the state guarantee behind the entire blanket bond issue. And there was a couple of selectmen who came down to the hearing and listening to the testimony they concluded that we really do do better now under this system than you would under the new system here. The principle worry of Mr. Acorace from Manchester and a few others was that the state would renege on it's share. That's what they are really worried about. They said they won't renege on a bond issue but they might renege on a guarantee. What we do now is we calculate what we would have paid under the bond issue and make our payments directly to the town instead of to the bond holder. The town receives the income from both the federal share and the state share and pays his bondholders putting up his 5%. That way you have one conduit to one bondholder group. And frankly on balance we felt that there are more gains to the present system, so did the Water Pollution Commission, and so did all the people involved in keeping it the way it is then going to this other one. And the State can renege; but we don't intend to renege on the water pollution bond issue. They are always in those high priority fixed cost items that come in the budget before you

get the general expenses. So I really don't think there is a threat of that since there is full faith credit put behind these bonds. Any bondholder can come back and sue the state, or the town could sue the state so that there isn't any risk and I think we've set those fears away and I think at this point you would agree **SB 133** is really not needed.

Sen. LAMONTAGNE: Mr. President, members of the Senate, I rise in opposition to the committee report and for this reason I personally feel that right now the Highway Department, whenever a road is built for the town the Highway Department covers a full share of the expenditures of building that highway. The highway is turned over to the city or town and therefore maintained by the city or town. Now if you look into a recreation project you will find that again the recreation department will put up the project and then after the project has been completed and the money has been raised by the State of New Hampshire then turn it over to the city or town to maintain, if it's going to be a project for the city or town. I'm not talking about projects that are State controlled. Now, at the present what is in force, and I'm talking about cities and towns that are being forced by the State of New Hampshire and therefore this is by law that we are compelled to go into this water waste program, we are forced to do it by state and federal. Now the federal will pay 75%, the state will pay 20%, local communities will pay 5% and this is by statute. Now the 20% and the 5% has got to be raised by local communities and I have seen in the past where the State of New Hampshire had made a commitment and then never kept their commitment because the appropriation hadn't been made, and even the City of Berlin had to suffer because the education funds were not there and the taxpayers had to carry the load. Now I will agree that the 20% that the State of New Hampshire does guarantee, it guarantees to pay the notes on the 20% plus interest. But the thing is that if this General Court does not appropriate the money then I say that the cities or town will suffer and therefore you have to carry it over by increasing taxes. I have introduced this bill so that the State of New Hampshire would take and do the same as I've mentioned about the Highway Department, the Recreation Department, that the State of New Hampshire would raise their own money. The State of New Hampshire can raise money a lot cheaper than cities and towns can because their rating is a lot better. At the same time when we have to borrow, and I'm

talking about cities or towns, when a city or town borrows then that credit is charged to us and it changes our rating when we want to borrow for other projects. I have been told that possibly we might be able to lose some additional work that needs to be done for this water waste program. Well, then, if that's the case I can't see why the Finance Committee did not come in with an amendment and amend my bill so that my bill would read that all the construction of the water waste that all funds will be raised by the State of New Hampshire, and let the State of New Hampshire get the federal money. Let them raise their own 20% and then we can take care. I'm talking about the cities and towns, we could take care and therefore raise our 5% and therefore pay the State of New Hampshire, and then after the work is completed then let them turn the project over to us. I can't see why the Finance Committee couldn't amend it to go along with the system of the Highway Department and the system of Recreation. This is why I'm in opposition to the proposal, because I feel the Finance Committee could have come in with an amendment and it could have been done.

Senator Bossie moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. BOSSIE: Mr. President, it gives me great pleasure to make this motion together with my good friend from District One. In the five years that we've been here I don't think ever agreed on any bill but this is the bill that we do agree on and I would ask the Senate to concur with us in this. I heard the speech by Senator Lamontagne and I agree with him. I urge those of you who are from the cities and as well from the towns in order to make bonding more appropriate that this bill should be passed. I see no logical reason why anyone would oppose it. This is the way it's really being done except it's requiring the towns to go out and get the bonding when most of the towns don't have the ratings the state does and I'm sure we are going to have the chairman of the committee who is perceptive with regards to finance but not withstanding that we urge you to support our motion.

Sen. TROWBRIDGE: I will speak to the idea that not withstanding the facts we will do something else. I think Senator Lamontagne and Senator Bossie raise good issues. That's

why I said the hearing was very interesting. Most interesting was the reaction from the man of the town of Gorham who came down to support the bill in it's entirety and walked away, came out of the hearing and said having heard the testimony I think you ought to kill the bill. It was very interesting to see the metamorphosis in his brain as we went through it. In answer to Senator Lamontagne, he raises the issue the highway projects, no question those are our highway projects, they are not a federal project they are state projects in which our statutes have always said we are going to go out and do a highway project and let's say it's a TRA, the State will put up the money and the towns pay back the State. The highway does not bond for those particular projects. There is no bonding involved at all so that is an entirely separate situation, Senator Lamontagne. On the education example that he raised I know what he is referring to an that's school building aid, in 1971 when we had the budget crunch, we cut school building aid. School building aid is different, we do not guarantee those bonds. School building aid has always been on a proportional basis whereby we pay, let's say on a cooperative school district, 55% of their building but we do not bond those either. Those are not carrying the full faith and credit of the State of New Hampshire. That is a different situation. I think it was terrible that we did that school building aid because everybody was counting on it. Luckily I was in the House at the time, I voted against that measure. We shouldn't have done it, but the real thing that I think is interesting is that Mr. Acorace, who came from Manchester, the finance manager of Manchester, is a good guy and an old friend of ours and under questioning we said when you went out and did your bond issue what percent of interest did you have to pay? And low and behold he got the exact same 5% interest tax that the State of New Hampshire got, one week later it went out with it's sixty one million dollar bond issue. In other words there was no difference in cost at all to the City of Manchester then it would have been if it were a state bond raise and that's because they are considered state bonds. They are guaranteed by the state so that you cannot pull this thing that it's going to cost the city more. It is going to cost them less because they will then be able to get the state guarantee across the entire project. That I think is what persuaded the man from Gorham that there are some real benefits for having it done this way. The final thing, if the state were to bond the

entire project and then ask for the cities and towns to contribute what is there to convince me as a State Senator that the towns will pay their share. You can cut this and slice it both ways if you're worried about the state picking up its share or why would I think some cities might not want to renege and I'm having great problems in my area in the towns of Winchester and Swanzey who are not willing to go along with water pollution projects. I think, on balance, the Water Pollution Commission is run this way and it's run this way nationwide I do not see for us to go out and change something that had evidently been working very well in which the cities' main objection is what they'd like to do say in bonded indebtedness of Manchester that it does not reflect those bonds and payments for the water pollution project. That's what they really want, is to not have to show on their balance sheet that they have this outstanding indebtedness, even though down on their expense item, on their budget, they have to have payment to the state for the bond. I must say I think what Mr. Acorace wanted to do he wants to bond the City of Manchester for other projects and finds this amount of outstanding indebtedness somewhat of an impediment. It's real. It is their obligation not ours.

Sen. SMITH: When you are constructing a sewerage project, the state and the federal government pay only certain portions of that project so that under this bill the sections that are not guaranteed, laterals which the municipalities have to pay for they would have to bond for separately, is that correct?

Sen. TROWBRIDGE: Under this bill there is nothing to say anything other than the state would bond its own 20% share of the allowable, not of any of the unallowable.

Sen. SMITH: So when the towns then have to bond for the other portion, they would probably instead of being considered a triple A bond rating would be a B double A rating and would have to pay a higher interest rate on that portion.

Sen. TROWBRIDGE: Not only that, but the smaller the bond issue, the less competition there is in the bond market for it and you get fewer and fewer bidders and that tends to make your interest rates go up. So you carve it down to smaller segments, everybody loses. No way that if you are any bit acquainted with the bond market would you change the system that we have now. It will cost you more money no question.

Motion failed.

Motion of inexpedient to legislate.

Adopted.

SB 112, authorizing payment to the city of Concord for use of solid waste disposal facilities by the state. Ought to pass. Senator Smith for the committee.

Sen. SMITH: Mr. President, what this bill does is allow the State of New Hampshire and the City of Concord to get together and reach an agreement on payment for the state's use of the City of Concord's solid waste treatment facility. Senate Finance Committee looked at this bill long and hard and felt that it was a valid piece of legislation, in that the State of New Hampshire contributes a great deal of solid waste to the City of Concord facility and should in fact pay it's share. Not only do we have a State House and office buildings, we have a State Hospital, State Prison which contribute to the solid waste problem of the City of Concord. I hope the Senate will go along with the bill.

Sen. HANCOCK: As sponsor of this bill along with the other members of the Concord delegation I would tell you that a committee from the city government studied this question for about a year and came to the conclusion that the amount of money which probably is involved will be in the annual amount of about \$6,000 but inasmuch as this couldn't be fixed it seemed a reasonable thing to have an arrangement worked out between controller and the city authorities to come quarterly to a figure which would be acceptable to both parties. This I think would be a meaningful gesture on the part of the State of New Hampshire, and I think it would create not only good will but a feeling of responsibility to the state which I think is due to the city.

Sen. MONIER: I'm really not arguing this one way or the other. I'd just like to remind the Senate that if we start this business of the State paying for every service that the City of Concord provides, the next case will probably be in Keene, the next Plymouth, Durham or any place that they have that particular thing. I've seen three bills within the last six months referring to this same issue. I think that all the Senators in all good conscience should remember that state government also provides a lot of other things besides junk to the City of Concord, as they do to Plymouth, Keene, Durham or wherever

they have a state agency there. I am going to have to be recorded in opposition to the bill on that basis. I think that once you open this small dike, I think you are opening for a nice big goose egg for later.

Adopted. Ordered to third reading.
(Sen. Monier recorded in opposition)

SB 85, relative to the authority to levy tolls on the eastern New Hampshire turnpike, the central New Hampshire turnpike, and the New Hampshire turnpike system. Inexpedient to legislate. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate, this bill takes the authority to buy tolls and increase the existing tolls on New Hampshire turnpikes from the Governor and Council and gives the power to the general court. It also keeps in force the current tolls until they are changed by the general court.

Senator Fennelly moved to substitute the words "ought to pass" for the words "inexpedient to legislate."

Sen. FENNELLY: **SB 85** is probably one of the best consumer bills for the people of the State of New Hampshire in this session. I know a lot of people won't talk about the sacred cow, which is the Highway Department. But I'm going to talk about it and I'm going to talk about the increase of these tolls over the last year. At the Hampton toll house we had an increase from \$.25 to \$.40. We were also informed on Channel 9 by Mr. Flanders there is a very good possibility that the increase will go to \$.50, and \$.50 on the Everett Turnpike. Now something is out of balance here. It seems in every other state in the United States the Legislature has the control over the toll. We happen to have a Governor's Council here. Well every time the Highway Department wants to build a road for Digital Corporation for ten million dollars they will come before the Council and say, well we have to increase the tolls to raise X amount of money over the next two years. Bring you back in time a little bit to a toll bridge at the Kittery toll bridge, where New Hampshire shared half the revenue, and when the

new Interstate is going to be built from New Hampshire into Maine and that toll booth is going to be closed and the Highway Department said if that happens dooms day must follow immediately. Well it was closed and nothing happened. To have the Governor's Council, which has no input into the money given to the Highway Department, have the authority to approve the increase in tolls. I would also like to say that we can expect, just in the Hampton toll house area, if this continues that you're going to see seventy five cent toll within a period of two years and probably a dollar with four years. The argument is, well we have tokens. I think it is a shame, even with the token, when a woman at the present time can drive from Nashua to Concord and Concord back to Nashua and if she doesn't have a token she has to pay \$1.60. Something else is also out of balance. We have 11 miles of road from the Hampton toll house to Maine which costs \$.40 you can drive the entire Maine turnpike, 160 miles, for \$1.20 and their toll hasn't gone up. I ask the Senate in all fairness to support my motion and give the authority back to who it's supposed to be originally.

Sen. ROCK: I rise in support of the motion as put forth by Senator Fennelly. I also am very concerned about the way the tolls have been manipulated and handled by the Governor and Council. I think I must call attention to the members of the Senate that for over 10 years there was no change in the toll from Nashua to Manchester or from Manchester to Concord. Of course we don't enjoy the benefits of driving such as Senator Poulsen and Senator Lamontagne without the tolls. In our district our constituents are paying through the nose for that toll road. We were told at one time that there wasn't the slightest dream in the minds of those people at that time that the traffic would increase the way it has to the number of cars going through those toll gates every day, and yet instead of finding the road coming along and being paid for some day in the future we are faced now with increased tolls. Getting back to my thought, for ten years we got by with a twenty five cent toll. The toll was raised 60% in one hack to forty cents, and Senator Fennelly is absolutely correct, that's the tip-of-the-iceberg as far as the Nashua to Manchester at the Everett Turnpike toll road is concerned. What bothers me is that right now if you want to take a ride in your car down the Everett Turnpike between Nashua and Manchester the bulldozers are building a ten million dollar chair and it hasn't yet come to you,

as a Senate, although it has been in the House for the authority to do that work. They are just running this legislature around with a ring in it's nose in the Highway Department and I don't like it. I think that if they can go 10 years without a change they can wait until the legislature was in session the next time and we could have the input. We are asked to make the appropriations for these roads when they get around to asking us, takes them a little while, and yet we don't have the authority to set the tolls and that doesn't make any sense. If we appropriate the money and we set what the repairs are then we are reasonable people and we should be able to understand what the cost is going to be and whether we want to raise the tolls that much. Arguments will be made these tolls are being paid by tourists who come to our state and it's not necessarily the daily commuter because they can pay by tokens, buy tokens if you can get tokens. You can kill the goose that laid the golden egg too and make it hard enough for the people to get into the state and maybe they won't be so willing to come here to do the things we have to have for tourism in the state. I think to go from 25¢ to 40¢ in one jump was a horrendous mistake. I think if that need was there, and remember the increase to 40¢ isn't funding the improvements for digital. A new ten million dollar facility is being built on land donated by digital to take care of the problem in Merrimack but in attracting new industry if we are going to plan to do the other things that increasing the tolls are doing then we should take a little closer look at it. I'm not against having new industry. I think the state needs it. I think that the things that have happened in Merrimack with Anheuser-Busch should have lead to a more gradual increase in tolls so it wouldn't hit our motorists all at once like this. I think we have the ability and the talent and the capability to handle the tolls just as well we have the ability and the talent and the capability to handle the appropriations for the improvements. I think that this authority to set tolls belongs with the legislative body and not with the governor and council. And the reason I say that again is because it doesn't have to change every Friday afternoon when the governor and council meets and it shouldn't. It should come before this body for action and I ask the senate to vote in a affirmative with Senator Fennely on this. I urge you to consider what we are voting. We are not going to recind anything that has already that has already happened. I think we

can look ahead and be more responsible to our constituents if we pass this bill.

Sen. LAMONTAGNE: Senator, can you tell us how these additional construction that's now going on between Manchester and Concord and the construction that happened in Portsmouth from the toll gate down to the city of Portsmouth.

Sen. ROCK: Those were approved by the legislature.

Sen. LAMONTAGNE: How are these bonds paid for?

Sen. ROCK: Partly out of the toll road.

Sen. LAMONTAGNE: So in other words then all this additional construction that in the past and the construction is now going on then it has to be paid out of tolls?

Sen. ROCK: That is correct.

Sen. LAMONTAGNE: Now if the amount of the additional construction certainly doesn't it increase the expenditures of the bonds that have to be paid?

Sen. ROCK: Yes sir.

Sen. LAMONTAGNE: How would it be financed if it's not taken out of the general fund or even using highway funds, how else are you going to be able to pay for this additional construction?

Sen. ROCK: Senator, I've answered your question very honestly. I understand that the improvements are paid for by the increase in tolls. I'm not so sure about the work being done, but right now there is work being done on a new interchange in Merrimack, the workers are out there, the bulldozers are rolling, and we've never approved that one to my knowledge. What I'm saying is that we have the capability and the ability to understand what the work is and we have the ability to understand what has to be done. I think we also have the ability to understand what the tolls must be, and I think we should set them not the Governor and Council.

Sen. LAMONTAGNE: Then if this is the case, why is it that the general court for many years has been, I'm talking about the extension of I-93 through Franconia Notch, why didn't the general court take action on that?

Sen. ROCK: I'm not talking about Franconia Notch. There is no toll through Franconia Notch, you don't pump 40c when you go through the Old Man of the Mountain, you just look up and there it is. I'm talking about tolls on the Everett Turnpike and over at the seacoast, Senator.

Sen. LAMONTAGNE: Senator, maybe my question...Senator, it seems that the phrase that I've used that

you didn't understand what I was talking about, let me use an example of another section that the general court has been draggin their feet on appropriating money for I'm referring to Route 16, don't you feel that if this was in the hands of the general court to make decisions that would hold back some of these constructions?

Sen. ROCK: I'd have to honestly answer you Senator, I'm not familiar with Route 16, as I haven't researched it, but I think I've seen the legislature able to act rather swiftly and with a great deal of ability in every area and I see no reason why it couldn't act in the area of Route 16, if you went to the Highway Department personally and told them that's what you wanted, Senator.

Sen. LAMONTAGNE: Are you aware that the Highway Department has been appearing before the general court for almost every session. I was asking for an appropriation for Route 16 and right now it's being held up in the Appropriations Committee in the House, are you familiar with that?

Sen. ROCK: Do I understand from your question, Senator Lamontagne, that you want to take that improvement money out of the tolls?

Sen. LAMONTAGNE: No, I do not want to take it out of the tolls, although Route 16 is out of the tolls for what the appropriation is being asked right now. And the general court is holding it back.

Sen. ROCK: Senator, did you mean to say that Route 16 is being paid for by the tolls of the Everett Turnpike?

Sen. LAMONTAGNE: Definitely and the general court is holding that project back.

Sen. ROCK: I think if that is the case, Senator, someone is in severe violation of the statutes, to take the money from the Everett Turnpike to repair Route 16, I'm not sure about that.

Sen. LAMONTAGNE: It's within the rights, it's an extension of the Spaulding Turnpike.

Sen. BERGERON: Senator, if a constituent of mine left Rochester and traveled to Hampton approximately how many miles would he travel?

Sen. FENNELLY: About 22 miles.

Sen. BERGERON: On traveling that 22 miles how much in tolls would this individual pay one way?

Sen. FENNELLY: He'd pay 50¢. \$1.00 round trip.

Sen. BERGERON: Senator, you said 50¢ would you believe 65¢?

Sen. FENNELLY: Correct.

Sen. BERGERON: Senator, do you recall the conversation about 2 years ago about increasing the toll from 25¢ to 40¢ on the New Hampshire turnpike and do you recall what the reasoning behind it was?

Sen. FENNELLY: Well if my memory holds true, Senator Bergeron, I think it was in the area to support different construction projects and highways. That was my interpretation, but I know it's just for the upkeep, all tolls should be for the upkeep of the present road.

Sen. BERGERON: Senator, is it your understanding that the 15¢ increase in tolls on the New Hampshire turnpike was not to be used for maintenance or improvement of that stretch of road, but was to be used for an extension of another turnpike system?

Sen. FENNELLY: My memory doesn't hold true. My memory holds pertaining to the extension of Spaulding Turnpike, which I think is a disgrace; in the last session the cost was going to be twenty two million five hundred thousand dollars and, low and behold, talking to Commissioner Clements over the phone we find out there is an eleven million dollar increase for some unknown reason in construction cost, I guess.

Sen. BERGERON: My constituent now travels from Rochester to Hampton over 22 miles of highway, he or she now pays 65¢ without this legislation, can you venture some kind of guess what this same individual may be paying next year at this time?

Sen. FENNELLY: I project within five years from Rochester to Hampton will be \$1.00 and \$3.40 round trip.

Sen. BOSSIE: Senator, if one were opposed to having a toll booth up in the Old Man of the Mountains and at the same time was in favor of the general court or the legislature setting the toll would we vote for the Fennelly motion?

Sen. ROCK: I don't understand your question Senator. Would you repeat it for me?

Sen. BOSSIE: I've heard Senator Lamontagne talk about the Old Man of the Mountain and a problem up north and your response to him. If we don't want a toll gate up north but at the same time we do want to be setting the tolls in determining how much they are, wouldn't we support the motion of Senator Fennelly?

Sen. ROCK: That's correct, Senator.

Sen. MONIER: Senator, would you be kind enough to assist me a little more. Am I not correct that this throughway type of construction is primarily now the responsibility of the legislative body?

Sen. ROCK: Except to set the toll.

Sen. MONIER: The point I'm trying to make here is, doesn't the legislature, at the present time, pass on the public works project that are going to deal with our road structure?

Sen. ROCK: Yes.

Sen. MONIER: Then we now have a situation, am I correct, where the legislature passes on the construction project but someone else sets tolls to assist to pay for any portion of those?

Sen. ROCK: That's correct and that's what bothers me, Senator.

Sen. MONIER: Wouldn't you consider then that this, in a sense, is a split in authority and allows for the consumer and tax payer and the person using these roads to get a real situation just as we had recently where had the toll raised without the knowledge or expectation at that time?

Sen. ROCK: That is correct.

Sen. LAMONTAGNE: Senator, assuming that the authority was taken away from the Governor and Council and was placed into the hands of the general court, where would the general court find the necessary funds to make up the difference in paying off the increased bonds that we have because of construction?

Sen. ROCK: Well, Senator, I think if you read the bill carefully, and I hope you will, this doesn't say that we are irresponsible people, it doesn't say that there may not have to be increases even again in the tolls, it doesn't say that we are going to wipe out the tolls, it doesn't say that we are going to reduce the tolls, it merely says that we as a legislative body have the ability to set the tolls and the authority should be with the legislature as it is in other states and not with the Governor and Council, as I'm sure you're aware Senator. Governor Thomson and the Council don't have a hidden printing press over there that they print money on. They handle the money that comes out of the legislature.

Sen. TROWBRIDGE: I'd like to speak briefly. I'm certainly not in opposition to this bill. If anything, I don't think it goes quite far enough. I must say that in the last two sessions

all these bills that have been in, to six lanes the Everett Turnpike, 8 lanes the turnpike over in the seacoast, have all been before you, every single one has been voted by the House and Senate. Those bond issues were all set forth in each of those bills. At the time of the hearings of those bills the predicted toll structure was discussed before the committees, so that there was no doubt that inflation being what it is that 25¢ set in 1951 is not the same 25¢ that it is today and that the incredible cost of doing these things late has to be paid somewhere so I have a little sympathy with the Governor and Council, because there isn't any way to pay for this stuff that we put in unless we do raise the toll. However, I would like to say that, of the toll structure that Senator Bergeron was talking about, over on the Blue Star Highway that 12% of those tolls are going to underwrite the inherent loss in the Spaulding Turnpike. That's really the amount of money that is being drafted off of that and the reason for that was that the amount of out-of-state travel on the 11 miles of Route 95 was so much higher than it is on the Everett Turnpike that you really can be saying your picking up a great deal of the traffic that goes to Maine, and everybody that goes to Maine has to go on that turnpike so that there was some logic of taking that area which had an enormous sinking fund, it was making money like crazy, the Blue Star Highway, making money hand over fist and using it to support the extension of Spaulding Turnpike, which if you hadn't done that Senator Bergeron your tolls right now in Rochester would be 50¢ so I think you've got to kind of weigh those decisions that were made. I think, about four years ago, which I think are defensible decisions. What Senator Rock is saying though, that right now, and it would have been better if more of the Senate had been around dealing with that situation four years ago when we made that adjustment, but it was a legislative adjustment. The other thing I'd just like to mention again, last session I brought in a bill in which I had no intention of really passing but it said that any four lane construction in the state would be approved by the legislature, I put it in. I was serious about it and I still think that it's true that you're not really going to get a handle on where things go whether it be Franconia Notch or whatever. When you get up in the four lane area the legislature should approve the layout, the whole bloody thing, rather than having it done the way it is now. The proposal, finally, it's going just the way Senator Rock says and they are doing it in Merrimack and then you come in and there's the bond issue and

it's pretty well after the fact, so that I think in passing this bill maybe we give a signal not only that we want to deal with the tolls, but I would like any reaction as to whether we ought to do something more about this other idea, which is the planning and implementation side because we had that whole New Hampshire toll system tied together in 1971. There you were able to take hold from one side and swing into another, if you were making money on one why put the tolls up on the Everett turnpike if you were making money hand over fist on the other. Didn't seem to make much sense, made more sense to make a system out of them including the Spaulding Turnpike. A lot of work's been going into this and now it's coming to roost. It's coming to roost because we are building the highways.

Sen. ROCK: Senator, I think I heard what you said and I hope I heard what you said, I'm correct that the work is actually being done in Merrimack for a multimillion dollar facility that is underway and we are going to be asked to approve the bond issue sometime in this session, is that correct?

Sen. TROWBRIDGE: Not only that, it's interesting that the flow pattern on that interchange indicates clearly that the reason they need an interchange is that most of the employees who are going to work at Digital-Merrimack are not New Hampshire residents. They are Massachusetts residents who are going to cross the border, have a ten million dollar interchange to get off to work at Digital, get in their cars and go back to Massachusetts where they will pay an income tax on all the things they are supposed to be getting rid of, and what new jobs are being created in Merrimack I'd like to know, other than the people who are working on the ten million dollar interchange. That's the only job that I see coming as a result of this policy.

Sen. ROCK: And do I understand you further that we, as a Senate, and our co-equal body on the other side of the wall have no handle on the four lane construction that might be in somebody's dreamworld, that is going to come before us some day after they have decided to do it?

Sen. TROWBRIDGE: Our problem, that I see, is that we have no real power of initiative. If any of you have gone to the Highway Department will know exactly what I'm talking about. We have a negative, I suppose, on them. If we cut their budget, power of the purse strings, we have that negative. But

if things get along far enough and commitments get made and this and that, at that point it's very difficult to stop and, also, if you were to come to the Highway Department and say we need a stretch of road here, if they all want to initiate it, it doesn't get initiated. Now I've always felt that was to bad. When I first came in the legislature I was told no one does legislation on roads. The reason why, if you went legislatively, all the roads in the State of New Hampshire would run from Nashua to Manchester and Concord and back because that's where the voters are. Seems to me all the roads already lead to Nashua, Manchester and Concord and back, so I don't see that much of an argument any more. So we might just as well get it in here and share a little of the bread hopefully with some of the other Senators around.

Sen. ROCK: In your legislative experience, in contact with other states, is it not true, Senator, that in other states these are legislative decisions that are made on the initiative basis and that the funding and the tolls are also legislative decisions?

Sen. TROWBRIDGE: Actually when you go through the states, by in large we are just about the model for the states, by in large the Highway Departments have been left fairly well with the initiative process and if we were to do this we would be breaking what you might call new ground and of course times have changed and I think it might be time, maybe I'll drag out the old bill and bring it in if anybody wants to see it again because what it runs into just as it does here is that right now the initiative is for the Highway Department and the approval is only Governor and Council as you know. They have the hearing, if the Governor and Council say yes we are committed to that highway whether anybody else wants it or not. So that you'll have to, in that way, be interfering with the Governor and Council final authority, if you say the legislature is going to make the decision on four lane highways. Two lane things I really can't see us getting into. But some major facility so you will have to be upsetting the balance that has been here for a long time and I think that that major obstacle is if the Governor and Council wants to keep that authority.

Sen. MCLAUGHLIN: Mr. President, members of the Senate, I rise in support of Senator Fennelly's motion, this bill should pass. I think all we are asking here for is the people in areas mostly where they pay a toll know about what they are going to pay for, how much it's going to cost them, whether the toll is going to be increased to and for. I'm sure they have

formulas as to how many cars go by certain areas why they want to increase it and so forth. The people in those areas ought to know what their expenses are going to be, how much it's going to be costing to raise it so we, the members of the general court, can get the input from them as to how they want it. They are going to pay it because people in the southern part of New Hampshire, Nashua, Hudson, and so forth are hitting these tolls constantly and the other part of it is free but for us to go to Manchester or to go to Concord and using the Everett Turnpike and getting hit all the time. All we are saying here, yes we want improvements anytime, sure, if you're going to have the improvements let us know what they are going to improve, how much it's going to cost to continue maintaining it and running it. All we are asking here for is to let us, the general court, put the input in here and know what the charge is going to be so we can tell our constituents and they can tell us what they want and we come back and vote it here. I urge it's passage.

Sen. MONIER: I'm going to rise in support of Senator Fennelly's motion of ought to pass. I would just like to reiterate a couple of things. One is that I was here when the four lane bill came in from Senator Trowbridge. I'm not so sure that it was in for the motivation that might be joining with it today, because I think it came in at the same time when we were discussing the Old Man of the Mountain as a parkway for throughway. There is no question at this time that we as a legislative body are not, we do not have a handle on the total aspect of what something is going to cost with respect to the construction of something. For example, there are a lot of complaints in the Merrimack Village area itself with respect to the multi-million dollar interchange. Some people have asked a very simple question such as a guy on the street usually does when he counts how much he is going to pay out of his pocket. We do get these kinds of programs in, they do go before Governor and Council, they come back to us and many cases we are put into effect with how much money is going to be involved with it and then suddenly later on either when we are out of session or within the statute at the present time we find our tolls are up. I'm reminded of that and I've never understood this at all that in a recent toll raise we made it cheaper the token while raising the toll. I've never understood that we needed the money. So most all the people went out and bought the token so the day the people use the tokens are not

actually any higher than before. The only problem is that within the next two or three months it will probably be changed. I think it may be an accomodation to the public that you get them used to the fact that it's more than a quarter they are going to throw in, I'm not sure; but it certainly made no sense to me that if we needed to raise the toll that we should have lowered the cost of the tolls to equal what it was. It doesn't make any sense because we have no say in the true perspective when we were given the project to where the people that are presenting that project for our approval or disapproval also must then be including in it what it's going to cost the guy that's using the toll gate, and I'm speaking of Senator Lamontagne's Route 16 and the Spaulding Turnpike. I've been hearing that in this legislative body for the last six or eight years. I don't know whether somebody is using it as a lever or what. Obviously, it has to be funded not from it's own traffic but other traffic. I'm not against that either if we do this in terms of the consideration that when it is proposed we know exactly what it's going to cost everyone and I don't think you can do that when you have two separate bodies dealing with the same thing.

Sen. POULSEN: Mr. President I rise with great trepidation in opposition to the motion and in favor of the bill, in opposition to the bill, I'm sorry. I probably have no right to speak because I don't encounter a toll from one month to the next except possibly to go to Peru or somewhere. For years I've been proud of New Hampshire's road system and it's an old adage if you run machinery, don't tinker with it. For that reason I'm all in favor of letting things stay just the way they are. We've got a good system, lets keep it that way.

Senator Bergeron moved the previous question.

Adopted.

Adopted. Ordered to third reading.

(Senator Lamontagne, Poulsen, recorded in opposition.)

SB 169, relative to parking permits for handicapped persons. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate, **SB 169** was a bill that I was waiting for the Legislative Services to bring forth before now because I wanted this bill to be an amendment to **SB 31** that had been introduced by

Senator Downing. In this late hour and at the same time Senator Downing wanting his bill, which I didn't blame him, and therefore as you probably know **SB 31** has already been adopted so now I'm just hoping that the Senate will vote to have **SB 169** so that it can go into the House. Right now the **SB 31** is being held up by the committee and I am hoping this bill would go into the committee and therefore if the House members feel that they want to amend the bill and bring in only one bill I have no opposition to it. The thing is in this bill here it does incorporate into it a question that has been asked by Senator Hancock about whether or not the person who is totally disabled, regardless of whether they are in a service disability, that once applied, and have a physician who has shown proof that the person was totally disabled that if this bill is adopted then, this is where I get myself confused, but in this bill here they would not have to have another physician for a totally disabled, so that's why I feel there is some good in this bill, but I want the Senate to know that there are some sections of it which are duplication which is in **SB 31**.

Sen. McLAUGHLIN: Would you just explain what this bill actually does for the handicapped person?

Sen. LAMONTAGNE: What this bill does is that the handicapped person can apply, by having a physician's statement, to get a special permit for parking.

Sen. McLAUGHLIN: Can they park at a meter without paying the meter? Or where can they park?

Sen. LAMONTAGNE: They can park in the different sections as directed by the Director of Motor Vehicle Department.

Sen. BERGERON: Senator, did I hear you say they could park in spaces designated by the Director of Motor Vehicle?

Sen. LAMONTAGNE: Yes.

Sen. BERGERON: Does that mean that the Director of Motor Vehicles is going to assign parking spaces in the City of Rochester?

Sen. LAMONTAGNE: No. That would be done by the town officials. The decal would be furnished for either, in other words, non-veterans would get a decal for their number plate.

Sen. BERGERON: Senator, does this allow handicapped people to park in no parking areas?

Sen. LAMONTAGNE: In some sections it will.

Sen. HANCOCK: Mr. President, members of the Senate, as I understand the walking disability permit now, it means that you may park only in allowable spaces. It doesn't allow you to park in spaces that would be fire hydrants and that sort of thing. It does, however, permit you free passage shall we say if a meter runs out and I think that's what most people who are disabled have used it in that manner. I would like to ask Senator Lamontagne a question, if I might. I'd like to ask you the same question I asked before on the handicapped bill. Annually, I have to consult with a doctor and attest to the Motor Vehicle Department that I have a physical disability and I'm pretty sure, unless a miracle occurs I will continue to have a physical disability. My question, Sir, is would it be possible for the Motor Vehicle Director to accept my certification once rather than requiring it annually?

Sen. LAMONTAGNE: Senator, let me say this, the intent of this bill, when I met with the Legislative Services and, by the way, this bill is supported by the Motor Vehicle Department, the intent was that you only had to apply once and once you have had a license then you would not have to have another physical in another year.

Sen. HANCOCK: Would you, Senator, be willing to work with Motor Vehicle to ascertain if that practice will be followed, because it hasn't been in the past?

Sen. LAMONTAGNE: Senator, let me say this to you, this is the purpose and hoping that we could pass this bill and when it gets before the House I plan to get together with Fred Clarke and get together with the committee to make sure that the question that you are asking is fulfilled.

Sen. ROCK: Does the privilege follow the driver or the car?

Sen. LAMONTAGNE: The privilege will follow the driver because the driver is the one who has the permit, although the license plate possibly might have a decal on it and driven by somebody else; but that privilege does not go to the person who has not got a permit from the Motor Vehicle Department.

Sen. ROCK: So, as I understand you, Senator, if the automobile is parked at a meter, the meter has expired and a ticket is issued for whatever reason it would be invalidated because the operator could show that he was disabled?

Sen. LAMONTAGNE: That is correct. If the person who did park and did not park legal, then the person would be fined just like anybody else.

Sen. ROCK: Does this bill take care of that?

Sen. LAMONTAGNE: No, it is taken care of by other sections.

Adopted. Ordered to third reading.

SB 170, relative to certain free licenses for all totally and permanently disabled veterans, if disabled while on active duty from a service connected disability. Ought to pass. Senator Healy for the committee.

Sen. HEALY: This is merely recertification of an old bill and it takes care of a man who served his country not necessarily in war time but in between. For example between World War II and the Korean War if he should become disabled while he is wearing a uniform he becomes eligible for other privileges the veterans have. For example, this gives them a free hunting license, license for hunting and fishing and also gives them a permit for his auto registration and also a free auto registration certificate. There are very few of these people that are totally disabled so it would not take in a great number. At the hearing we had one disabled veteran who appeared and he explained in detail the proprieties of this bill and also it was a unanimous report of the committee. We endorse this legislation.

Sen. BERGERON: Mr. President, I rise in support of the committee recommendation of ought to pass. I have personally been involved with one of the individuals that this bill will effect. The man is totally disabled. They are trying to bring it into line with what the federal government has now recognized as disabled veterans under federal benefits, and all we are trying to do here is bring them into line. The state has already recognized their plight of payment of property taxes and, as Senator Healy says, there are very few of them and the expense to the state would be very minimal, as he says it allows a free hunting or fishing licence, one drivers license and one free registration, and I strongly urge my colleagues to support the committee report.

Sen. LAMONTAGNE: Senator Downing, could you tell us whether or not if a veteran who has a service enacted pension of 80% and then later on his disability has given him another 20% after he was discharged, will he be able to get these license plates?

Sen. DOWNING: If he is totally and permanently disabled due to a service connected disability, that is disability was incurred in the service, yes I would expect he could, Senator.

Sen. LAMONTAGNE: So now, if a veteran got wounded during a time that he was going through his bootcamp and somebody shot him, that gave him 80% at the time he was discharged, and if he went blind which made him totally disabled, could he now collect a 20% non-service connected pension?

Sen. DOWNING: No, Senator, in that case certainly I hope he wouldn't get a drivers license, but if, I would say the disability has to be directly related to the wound that he received when he gets a non-service connected disability based on something that was completely unrelated to his service injury, it wouldn't apply. If he does become totally disabled as a result of the injury that he was partially disabled by being received in the service then he would qualify.

Sen. LAMONTAGNE: Senator, it seems to be a joke to some people but if a person was totally disabled and service connected would they be able to get a license plate at this time for his car even though he can't drive? Isn't he eligible?

Sen. DOWNING: I'm not sure of that, Senator. Depending upon the disability he's entitled to an automobile and the registration. I think he actually gets a vehicle itself or gets an allowance for it.

Adopted. Ordered to third reading.

HB 174, increasing the fee for motorcycle operator's license to \$12 and providing an effective period for such licenses of 4 years. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill raises the price of a motorcycle license from \$10 to \$12, but it lowers it in that it gives the operator 4 years instead of two, so he is way ahead of the game and puts it in line with the automobile licenses so everybody should be happy.

Adopted. Ordered to third reading.

HB 361, relative to the penalty provisions for violations of statutes and rules pertaining to aeronautics. Ought to pass with amendment. Senator Lamontagne for the committee.

Amendment to HB 361

Amend RSA 422:35, I and II as inserted by section 1 of the bill by striking out said paragraphs and inserting in place thereof the following:

I. Notwithstanding the provisions of RSA Title LXII, any person who violates any provision pertaining to registration or the air traffic rules, or who violates any provision of any order, rules, or registration made hereunder, shall be guilty of a violation for which fines up to the following amounts may be imposed:

- (a) First offense up to \$100.00
- (b) Second offense up to \$200.00
- (c) Third and subsequent offenses up to \$500.00 for each offense.

II. Notwithstanding the provisions of RSA Title LXII, any person who fails to answer a subpoena or to testify before the commission shall be guilty of a violation for the first offense for which a fine of up to \$400 may be imposed and shall be guilty of a misdemeanor for the second and subsequent offenses.

Sen. LAMONTAGNE: Mr. President, members of the Senate, this provides that if a person who violates any provision of the rules and regulation made under the authority of the Areonotics Commission or violates any provision of RSA 422 shall for the first offense be guilty of a violation and the committee has a committee amendment you will find it on page 15. This amends section 1 and 2 inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following: I. Notwithstanding the provisions of RSA Title LXII, any person who violates any provision pertaining to registration or the air traffic rules, or who violates any provision of any order, rules or registration made hereunder, shall be guilty of a violation for which fines up to the following amounts may be imposed: (a) First offense up to \$100.00 (b) Second offense up to \$200.00 (c) Third and subsequent offenses up to \$500.00 for each offense. II. Notwithstanding the provisions of RSA Title LXII, any person who fails to answer a subpena or to testify before the commission shall be guilty of a violation for the first offense for which a fine of up to \$400.00 may be imposed and shall be guilty of a

misdemeanor for the the second and subsequent offenses. And this is the committee amendment.

Amendment adopted. Ordered to third reading.

HB 430, authorizing dealers to issue temporary plates for 20 days. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: This bill, what it does it gives the dealers the right to issue plates, instead of 10 days, for 20 days and for the motorcycles to have the same, that these special plates will be issued for 20 days.

Adopted. Ordered to third reading.

SB 176, to amend the law relative to taxation on legacies and successions. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: Mr. President, this is a very simple bill it merely exempts from the legacy tax the decedent share of a homestead which for a period of at least three years is immediately preceding the death of the decedent was jointly owned and occupied as a place of residence by the decedent and by the brother or sister of both the decedent, if the homestead passes, or for use of the brother or sister. It merely adds the words "brother and sisters" to those who are exempt from the legacy tax of 15%. At the present time a wife is on mother, father, brother-in-law or sister-in-law but brother and sister are not on. We are adding them I mean son-in-law or daughter-in-law are on and we are simply adding brother or sister in addition.

Adopted. Ordered to third reading.

HOUSE MESSAGE
HOUSE CONCURS

SB 188, legalizing a regular meeting of the Monadnock regional school district.

SUSPENSION OF RULES

Senator Rock moved that the rules of the Senate be suspended so far as to allow the introduction of a committee report on HB 442 not previously advertised in the journal.

Sen. ROCK: Mr. President, HB 442 was referred to the Committee on Finance by the Chair and it was with the assurance of the Chairman of the Finance Committee that that committee would not hesitate, would take a speedy look at the bill since it did not affect state revenues. The committee has done what it promised it would do, we have done our work on HB 442. We would at this time propose an amendment to the bill which is being distributed by the clerk. The amendment has general agreement among the members of the finance committee. It deals with the bill that was presented by the House and was other amendments that were considered in senate finance and we think this is a good compromise. The art of compromise and cooperation went into the amendment that is before you now. It's the feeling of the members of the Senate Finance that in the good faith effort that we made in bringing back the bill that suspension of the rules would be in order so that the bill could be taken up today. Another reason that the suspension of the rules would be proper and in order is that each day that HB 442 remains in the hands of the legislative body the State of New Hampshire is losing money. I think the Senators are well aware of the content of the bill, it's the exotic betting bill, the amendments and I will speak to that at this time leaves HB 442 exactly and precisely alone as it pertains to the flats, the thoroughbred races and the amounts of money that were included in HB 442 that came to us have not been changed. There is a slight change in the amounts of money and distribution of purses as it pertains to the harness racing, however the harness racing amounts that have been changed would take care of the problem of the Sire Stakes. The Sire Stakes is the most worthwhile and beneficial program for the State of New Hampshire and the committee was convinced that the Sire Stakes should be an ongoing effort to continue to bring good brood mares to the state and continue to raise horses in New Hampshire that will share in the Sire States program. One of the problems with the Sire Stakes program was that it reached an end shortly down the path and after 1979 would not have been funded. This proposal and

amendment in HB 442 in Senate Finance takes care of that problem. If you read on page 3 of the amendment under paragraph b of the amount so paid to the state treasurer under subparagraph (a) a sum equal to 1/4 of one percent shall be expended for the promotion of agriculture in the state under the direction of the commissioner of agriculture, the some of \$1250,000 per fiscal year shall be deposited in the Sire Stakes fund established by RSA 426-A:5 and the balance shall be distributed according to RSA 284:2. So it takes care of the state shares and that percentage is included by statute. It leaves alone the amounts the Sire Stakes that has been prepared included \$150,000 for 1978, \$250,000 for fiscal '79 and thereafter. I believe, Mr. President and members of the Senate, that this represents a well worked out compromise in which all actions have been taken into consideration. No one has been ignored and I think that it is one of the best compromises I've seen worked out in the Senate so far this session. I urge that the rules be suspended so that the adoption of the amendment takes place today.

Adopted.

COMMITTEE REPORT

HB 442, relative to the commission and tax on running and harness horse races. Ought to pass with amendment. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the Senate, I think Senator Rock has explained basically the whole amendment to you clearly. What it is saying here is that we have included the Sire Stakes which means it will give a guarantee to people who are involved in the Sire Stakes program that they can know that this will be going on for a two year period, it will be going on indefinite. It's also for the same sums of money which we had previously voted \$150,000 the first year \$250,000 the year after continuing going in that manner. We are turning around in this bill here to improve the Sire Statkes as we have been very clearly told to us by people who are trying to run out of state and put our operation together, in no way will the Sire Stakes bill on it's own come under the operation budget for the forth coming year and be

funded. There are too many things that have priority over and above this, so putting it in here we are getting more money from the betters. We are not basically taking any money from the state itself. It's a question here of the betters going to the track, under this bill, passing more money to the state share than they were previously paying in exotic betting. The state is taking a considerable amount of money from them and guaranteeing the Sire Stakes. I think this bill here is worthy of consideration, I think it will do a job. I think it will bring more people to our track and give more money to our people who run the horses both in the flats and harness racing, and I urge passage of this bill with its amendment.

Sen. DOWNING: Senator, how much money does the Sire Stakes have budgeted presently as against how much we have under this bill?

Sen. McLAUGHLIN: Exactly the same, sir.

Sen. DOWNING: Senator, you indicated that some people putting together the budget of this state have indicated they will not fund sire stakes programs as mandated by this legislature and so you want to put it into this program instead of into this budgetary area, is that correct?

Sen. McLAUGHLIN: That is correct.

Sen. DOWNING: Senator, if these people who are formulating the budget are so powerful that without concern for the Senate they can just remove an item out of the present commitment, but explain to the Senate how they are insulated from touching it in this area.

Sen. McLAUGHLIN: I think we have two points of view here, Senator. One being the operating budget as forthcoming, being made up now for the next two years, and we all realize the so-called pinch we have, the money crunch we are all hearing about and so forth and we all have got to realize that it's a fact. I guess it's ahead of us and there it is in the overall budget item. I'm sure when that piece of legislation is thought about, like many others, as to where the funding of the four hundred thousand dollar bill, which would be a hundred thousand for the first year and a hundred thousand the following year, be laid on the table along with many other bills that we have here and thoughts as where we are going to divide our money is definitely crossed off. This here is saying we are getting more money, we are getting fresh money from the tracks and people go to the tracks to bet the money who we are getting the money from, we are just sitting aside and being

assured that these people who have the Sire Stakes and the big problem that they seem to have is if we race horses this year or next year will not be racing for several years, what's going to happen at that time if we do not know at this point of time, we cannot set upon ourselves to have them raised in the State of New Hampshire so they can guarantee that they will be running a few years hence.

Sen. DOWNING: Senator, the difficulty I have is understanding where we guarantee them anything more by doing this then the present position they are in without this, could you explain that to me?

Sen. McLAUGHLIN: I think I'd defer to the head man of Senate Finance who I think could more eloquently deliver that message that I cannot get across, Senator, I refer to Senator Trowbridge for that question.

Sen. TROWBRIDGE: Yes, Senator Downing, I think there are two basic things here that are being confused. One is of course that the budget of the state and the present thinking of the House members in House Appropriations when they put together their list of things they would cut first with no income we were informed that Sire Stakes would be one of the first to go. One of the reasons it would be the first to go is the fact in '76 when we did the Sire Stakes program in the beginning we said it would run through '79 only and then it would be repealed. It was already a program that was built with a phase out statutorily. I don't know if you remember that, but it would end in 1979 so all of the programs you could think of in the budget, here is an easy one because it's going to be phased out in two years anyhow. So one of the purposes of this amendment and I'm speaking now as much for Senator Blaisdell as I am for myself is that they wanted some permanency of funding for the Sire Stakes. The only place you're going to get any permanency is when you take the last big hunk that you came for the better and let's face it HB 442 is the time when your going up for the last time 25% of the exotic wagering. That is going to be the last chance, that we can see, of any increase in state percentages of our horse racing. Hence, it seems appropriate when you make that last big grab to grab something for the permanency of that which has created and has been wanted by the harness racing industry, so that this bill now having raised an extra nine hundred thousand dollars for the state. You can then say appropriately to me or Senate Finance or John Tucker look we raised additional money out of 442

plus we had put in a statute that this is going to be an on going program instead of the other statute which says it has to go out in '79. So I think there is all sorts of differences between those two avenues. I don't think anyone in Finance or House Appropriations is going to ignore the wishes of the House and Senate when they say here is something we consider statutory obligation of the state.

Sen. DOWNING: Senator, your statement is confusing, I understand what you are saying but you seem to contradict yourself. On one hand your saying that the chairman of the House Finance is going to set his priorities and the present allocation for Sire Stakes is not one of them. It's very low on his list, he's going to take it out so that we had put it in some place else and then he won't take it out. Well he can take it out of there just as easy can't he?

Sen. TROWBRIDGE: Not if the House and Senate agree this time around accepting the amendment to 442 that they want an ongoing program. Then at that point he would say look the House and Senate have spoken, that stands in the same kind of position as does our commitment to mental health, to foundation aid and to our commitment to a lot of things that are mere statutes which also could be cut out of the budget. In other words you can't guarantee anything in this day and age but you certainly would have made a statement that you have not made so far.

Sen. DOWNING: A policy statement we have not made so far, I'd like to ask you about that, Senator. In the Sire Stakes program as it stands now was debated in this chamber, weren't we told that this bill had all the funding we would need up through 1979 and our program would be on it's own feet, then you can judge us on it's merits, just give us the shot, just let us do this? At that time as I recall there are a lot of people that the priority for that money should go in other places but we bought it on a permise that this was going to produce additional revenue instead of taking the money that we had and putting it here on a one time expenditure we invested over here and it would multiply the dollars to take care of this area and other areas for many years to come.

Sen. TROWBRIDGE: The only problem what we did then as far as I can see is that we put in that repealer which meant the whole bloody program went out in '79 whether it's exceeded or not.

Sen. DOWNING: If the legislature determined to continue it at that time, it could continue it through couldn't it?

Sen. TROWBRIDGE: Precisely, and that's why we are here saying we're determined, we want to continue it and we're determined that out of the extra six, seven or eight percent that we are taking out of the better that we are going to be able to fund it as well. It answers the other question that we had which was how do we fund it. Now that the track has come back, and you talk about inconsistency way back when we start talking about Sire Stakes they wouldn't allow us to raise up to 25% of exotic wagering and they killed that proposal which could have been used to fund the thing in the beginning. So your talking about inconsistency, I'll agree that we've gone zig-zag, but it's not because of the Senate Finance, it's because of the various interests, here we are all trying to grab a piece of the pie.

Sen. DOWNING: Senator, would you explain to the Senate on what basis the Senate Finance Committee is making the recommendation that the Sire Stakes program now be permanently funded, now what is the ratio success with the money we've invested to date, what is the basis for that commitment by the Finance Committee?

Sen. TROWBRIDGE: At the hearing we had, I would say probably 25, 26 people who are in the horse racing industry. Many of them represented other groups of horse racing. We raised the question right to them, are you against the Sire Stakes bill? Heck no, we think it's great, we think it's done a great deal for bringing into this state horses that race in the harness meet where we are not getting good horses now and it's promoting people to use it. I got nothing but pluses from the horsemen. I've never had anything but pluses come in saying that it has been an inducement to people to bring to the track better horses and better horses. I understand and I never go to the track so I'm one of the last persons to talk about it but better horses never the less evidently bring more betters so from a financial commitment I don't see that we are in any way, shape, or form saying that the Sire Stakes program has been an unqualified success. I haven't heard any evidence to the contrary.

Sen. DOWNING: Senator, do you have any tangible evidence of dollars returned for dollars invested and I want to separate the support of the horsemen for the Sire Stakes program which I think we are all aware of, how much support

from these same horsemen did you have for putting this particular amendment on this particular bill?

Sen. TROWBRIDGE: The only problem we had on this particular amendment, to those people, was changing the rate on the flats, on the thoroughbreds, and so we listened to them and we did not change the ratio between the tracks and the horse. We listened to the testimony that went with it. So what more can you do. They had no particular disagreement. I understand Rockingham track is agreed to the 8 1/4 percent. The only thing your doing here is taking 1/4 percent more for the state and your funding the Sire Stakes on a permanent basis. That's all this bill is.

Sen. DOWNING: The other half of that question, Senator, do you have any kind of tangible evidence that real dollars returned for real dollars invested. Not just talk if people like or don't like something, but the dollars returned. Where is the state revenue, how much did we have returned to us in state revenue for the money that your. . . .

Sen. TROWBRIDGE: Up to this time we've only put out probably a hundred and twenty, thirty thousand in purses. That's because it takes two years to grow a two year old. You can't very well run one year olds so that in this thing and the testimony is that there are a great many of the people that are now breeding horses who someday will be two year olds and be able to run for the purses that are represented by the Sire Stakes. It's our way of sending more money back to purses instead of simply giving it to the track where you don't necessarily find it get back to purses, and so the legislature is saying we are for purses and it's a long range commitment. I don't think it's outlandish, when you take an industry which has made lots of money for the state over a long period of time, an industry which grew up with no competition now has alot of competition, your the one who told me all of that. Here it is, it's in trouble and the industry's telling us we need more purses, and why someone like you, who's knowledgable of the trade, wouldn't say that by diverting money out-of-state for purses we are not doing the right thing. I don't know. That seems to be the current thing. If you don't believe it, I'm not going to persuade you because you know as much as I do or more.

Sen. DOWNING: Would you yield to my opinion on the entire matter, Senator?

Sen. TROWBRIDGE: Certainly.

Sen. DOWNING: Mr. President, I rise in opposition to the pending motion to amend this bill. I'm very very seriously concerned with it. I'm concerned with the state of this bill, I'm concerned with the program that everybody seems to be in favor of, but everybody wants to play around with. It was only a couple of days ago that we had a very peculiar and unusual move of this bill being side-tracked into the Finance Committee and, at that time although I wasn't in the chamber I understand Senator Fennelly advised everybody why it was going in there, not for any appropriation that was in it because there wasn't any, but it was going in for another purpose. Now you see that's born fruit today. He was telling you the truth. He knew why it was going there and here it is. The Sire Stakes program, and I was the sponsor of the original bill establishing a Sire Stakes program, and I support the Sire Stakes program today, and I'll support it tomorrow because I think it can pay off; but I think these people have to be held accountable for the money. I think what your doing now is making an accommodation that people probably feel a little stronger about Sire Stakes then I do or have more of a commitment for some reason or other and they want it plugged in under a cover so it won't be held for judgment by the legislature where your money is going. Now there is a lot of money here. Four hundred thousand dollars committed to this program. That gives you an idea how strongly the legislature felt about Sire Stakes. We are here to support the bill. I'm not concerned about what the chairman of the House appropriations committee says he's going to do. He can't do anything without this senate. Now we got the tail wagging of a dog. The sire stakes program is sufficiently funded. It's funded through July 1 of 1979. There is plenty of time for these people to prove that the investment was a wise one and that it ought to be funded permanently. There is no reason for us to fly by the seat of our pants. We had this bill in Ways and Means Committee and we had horsemen there come in and testify. They are uncertain themselves about the Sire Stakes program. Because they can't say if they are going to be funded in 1985. Well who in this state can say they are going to be funded in 1985 or 1980 or a year from now for that matter. Who can say it? Nobody can. So they are apologizing for their lack of activity in that industry because they are not willing to get out and make the commitment, commit themselves to the program and then come back to the legislature and say look you gave us the dough and

got this thing started this is the job we are doing, we need some more money we made these commitments based on our activity and your earlier commitment. We've justified that we want your justification to continue and that's the way you do business. You don't take this thing and dunk it under the cover and nobody's going to look at it again. It automatically goes to another commission to distribute and you have, you're just not going to look at it again. I think it is a very very grave situation. It's a very serious amendment. It's contrary to certainly the fiscal philosophy that most of the members of this body that aren't familiar with. Now I dare say that there are probably some other reasons for even considering this amendment but you can't find anything reasonable and rational and in line with previously demonstrated thinking policy of this body to justify it certainly. I say if the Sire Stakes program wants to approach in a different way as Senator Rock has said before the committee on Ways and Means that he would gladly get involved with another type of bill and other legislation. This piece of legislation here has been all sorts of people who want to take a whack at it, they want to take a shot at it. There is a lot of ideas of how people can get different monies out of it and so forth. The racing industry is in trouble. It's in very very serious trouble and we depend a great deal upon it and it just isn't the type of bill to be tampering with. It needs no amendment. The bill, as good as it is, as substantial as it is, the Sire Stakes program is in good shape right where it is. You have no worries about it. You will be able to pass judgment on it at a later date, and you know as I know, that budgets are going to come before us and you don't have to worry about what the House is going to do to that budget because you will have the say on it as well as they will. Now, please, I urge you to reject this amendment, reject any amendment whatsoever to the bill and pass it in it's original state.

Sen. TROWBRIDGE: Senator Downing just for one further time in your experience in dealing with this bill, is it not true that you've heard people say how can you take that away from the tracks discussions of 442? Haven't you heard people say that it's wrong to take something away from the track? Have you heard that, taking away from the track, the tracks share?

Sen. DOWNING: No. But Senator I haven't been privy to as much discussion as you have in this thing.

Sen. TROWBRIDGE: You talk about reality and fiscal thing, isn't it true that if you were to pass HB 442 unamended at this time and then you came back later on, two years later, and said I think the Sire Stakes program has proved itself out and now we want to take from the then established track share that the screams will be much greater from the track than we used to have it, now we don't. Isn't it true that if your going to make these adjustments and give the track a million seven hundred thousand dollars more per year, which they will divide with the horsemen, this is raw dollars going to the track that it's only conceivable that time is when you make whatever arrangement you are going to make or you don't make them at all. Isn't that the way things work, Senator Downing?

Sen. DOWNING: Senator, I think the important thing is that we make sure that a program that was sold to us is doing what it says it would do before we permanently fund it, and we have two more years to look at that program and that's where it belongs, right out in the open. You know and I know that if we believe it's worthy of funding it's going to be funded, where the money is going to come from will be second but it comes in that break down or somewhere else.

Sen. LAMONTAGNE: Senator, did I hear you correctly, that this proposal is a compromise and is agreed by all parties?

Sen. McLAUGHLIN: This amendment we have in front of us today is a compromise and agreement over the amendment which we had let's say 40 hours ago, the answer is yes, with the Governor's office included. The amendment on here with quite a bit more money going out of here, but that's been crossed off, so let's not discuss it at this time.

Sen. LAMONTAGNE: As far as you know everyone seems to have been happy with the proposal?

Sen. McLAUGHLIN: To my knowledge yes. It's agreeable with the Governors office.

Sen. DOWNING: Senator, just a further clarification in the same area as to who agrees. A Senator in this chamber, earlier in the day, indicated to me through yourself that you would make contact with the management at the concerned tracks, that they were in agreement with this. Is that true?

Sen. McLAUGHLIN: In essence yes, and in essence no. It's natural they don't want any amendment, or tacking on any amendment whatsoever on this bill 442, which is their privilege and their thoughts, it's their bill if they want it and so forth and so on. On the other hand they have to turn around

here 1/4 of one percent, which amounts to about forty seven thousand dollars, there is no problem with that part of it. The track, I'd have to say, didn't want any amendment whatsoever. They feel the bill would get back to the other side and they would do something with it. I don't think we should be feeling what the other side is going to do with it if they want to put an amendment to it.

Sen. BRADLEY: Senator, one of the fears that's been voiced is that if we put this amendment on there, it's going back to the House and something awful is going to happen, like it dies or whatever. Do we have any indication that that's a legitimate fear, as to what's going to happen when this thing goes back to the House?

Sen. TROWBRIDGE: You know it's interesting to me that they have the fears, because the House passed the bill without any amendment and passed it straight through. In other words, the House made it clear they wanted to take exotic wagering, increase it for the revenue to be produced. That's really what they went for, that's one of the Governor's programs that they could go along with. Now you come back with this Sire Stakes, making sure that the funding's taken care of, which the House Appropriations Committee would have had to take care of anyhow one way or another in the budget. So, as far as I can see, and I talked to John Tucker about it, the Appropriations Committee would say O.K. they have taken care of it, out of the increases. They made both a revenue production and a revenue spending in one bill and that's what this is all about, and I think it makes it simple for them and I can't imagine that the great number of people who are for the track and see the benefit the track is getting are going to fold up and do something simply because the Sire Stakes program has now been funded out of which it would have had to be funded anyhow.

Sen. BRADLEY: With respect, to follow up Senator Downings question on what this program has done for the State, how are we going to, with or without this amendment, it seems to me that the State is going to be responsible, should examine yearly or at least bi-annually whether or not the Sire Stakes is successful. I don't think you can define success by the fact that people are getting the money. Obviously they ought to be happy. How does the State determine the success for the benefit of this State. Is there any really good way to say this thing is really producing well for the investment we have made in it?

Sen. TROWBRIDGE: Of course. The Sire Stakes are available only for New Hampshire bred horses. The problem was there weren't enough horses really being produced so that you can very equally say that if there are enough people running races bidding on these purses you are producing New Hampshire bred horses which is also an industry which employs people and takes up pasture land and things like that so that there is a very viable way to say how many horses are coming into the market that are eligible for the Sire Stakes and that kind of new life coming in with the locally bred horses also has a track record in New York State for I don't know how many years, and where that's been proven out it takes a while and it takes a consistent program. You can't very well say I'm going to go and set up a stable in New Hampshire, where I'll know I have the inside of the purses because the only people eligible for the purses and put the program going to end in two years and the breeding cycle starts now, and the two year olds will be there in two years so that there is a lag of time in the program, that's definite. You have to have it go more than 2 years.

Sen. BRADLEY: I understand the problem that you can't judge it after one year but it doesn't seem to be that you can judge it on the basis that you've helped an industry because it seems to me that the State of New Hampshire ought to be able to say to itself, at some point down the line, this thing has produced revenue for the State of New Hampshire government, not for some industry within the State of New Hampshire, but we see more money being backed because of the Sire Stakes or however the money would get back to the state.

Sen. TROWBRIDGE: There are two sides to that. Right now its a declining industry. You can judge this thing either by averting a decline or by raising revenue. You can also avert it by saying we have enough new horses coming in here with the competition from the other tracks. It's difficult to get stables in South Carolina to set the horses up here. Harness racing is particularly local, they don't go that far so that you can't have any races, Senator Bradley, unless you get some horses out there and it's one of those things that to make sure that you don't have horses that are old nags, that are tired and no one has ever seen any new blood. That racing guy who goes down to Hinsdale, and I've been to Hinsdale maybe six or seven times and I go back and by God there is the same horse riding along and he's getting older and no wonder you can figure out

who's going to win so that there is a certain lack of excitement and that I think is what we are talking about. You've got to invest money to make money, and you've got to do that in any industry you're in and if it weren't true you wouldn't have had people like Mr. Rosenberg and others who've had stables here and know something about this business and be so absolutely messianic about it in that they have seen it work elsewhere and I have to sometimes rely on other peoples opinion. It really doesn't matter what I think, there are other people who know more. And so I've been convinced that this is the kind of plowing back of revenue into an industry that is essential.

Sen. BRADLEY: If someone could say to me look we will get down the road three or four years, you would be able to say that there has been this much more money back and therefore the State is that much more richer, but as I see this thing we are going to get down the road a ways and either harness racing is going to be going fine in which case the answer will be Sire Stakes is an amazing success, look at what it's done for the harness racing or harness racing is going to be in trouble and then the argument is going to be the only way we are going to save harness racing is to pump more money into Sire Stakes. I have this feeling that there is never going to be any reasonable criteria by which to judge Sire Stakes.

Sen. TROWBRIDGE: Right now at Hinsdale raceway there is a big debate as to whether any harness racing, it's really up for grabs. If all of a sudden all the tracks give up harness racing you're going to know that even with Sire Stakes it didn't save the industry and down the tube it goes, and then you repeal that statute. It's non-lapsing it doesn't get spent for any other purpose, will not go anywhere else, it will be accumulated so the money is not spent if no one is bringing in horses to compete for the purses. So you know one side of it. If in fact harness racing continues to be thriving in these communities you are then going to be able to say how many of those horses competed for the Sire Stakes at the two year old level and then went on and ran on the careers. They have a longer career then the normal flat racers. I really do think you will be able to see it, but what you won't be able to see, cause you won't get anybody to invest in the program if you say two years from now it goes out of existence that I can assure you would block me if I were going to make an investment in the stable to say they've made only that committment. That I

think is true. You've got to have some longevity to a thing like this.

Sen. SAGGIOTES: I'm asking this question purposely to help answer part of the question Senator Bradley had. Isn't it true that when Sire Stakes races were held at both Hinsdale and Rockingham the handle on those particular nights compared to nights where there was no Sire Stakes racing? Therefore both the State benefited by it as well as the track?

Sen. TROWBRIDGE: That is right and I say there are many more people who know more about this than I know and I wish they would state one thing that was brought out is that we did have a situation where another state had the opportunity to Sire Stakes this is not a, b, c, but it's interesting that Rhode Island didn't do anything and they don't have any tracks now, so when people say it can't happen here, it happened not far away.

Sen. FENNELLY: Mr. President, I'm hearing this debate and I really don't think I'm hearing it correctly. If I for a minute could bring the Senate back into the committee hearing about a week and a half ago, and tell the Senate how the horsemen feel, really feel. Testimony in committee was that the Sire Stakes program is just a very small portion of the harness industry. Horsemen testified "we support the Sire Stakes." I support the Sire Stakes but please don't do anything to this bill. We need money now. Immediately. In testimony, in committee, if HB 442 was passed it would increase the purses and that is now, not 6 years from now, and to get to your question, Senator Bradley, I'll answer it, how long it's going to take. So right now the horsemen need money. The track needs a better break coming from exotic betting now, as I mentioned last Thursday when I projected this bill being amended coming over, going over to the House and dying a long agonizing death. I think that the Sire Stakes program has been funded through July 1, 1979. For the record no state in this nation that has ever enacted some Sire Stakes program has cut it out of their budget. That is fact, if anything it's more. As an example, the State of New York, there is no other state in this nation that is hurting for revenue as much as New York. Their Sire Stakes program goes about four or five million dollars. It's still there, it still will be there in the future, but the question was asked of Senator Trowbridge, how long it's going to take if the harness industry comes back? It will probably take about six to eight years with the present breeding we

have in the state. About that period of time and what has happened in New York and I've been there, you go to a Sire Stakes, 150—200 quarter million dollar stake race down there, the place is mobbed. That is fine but the whole point is that horsemen, the majority 95% of them, want this bill passed as is. Now that's the testimony in worried about the Sire Stakes program. A few telephone calls were made three or four young people showed up and very nervous about it. Senator Downing explained what would happen to the bill. I'm saying this right now this State, a lot of people don't believe it, this State is in the twilight of paramutual betting and this amendment to HB 442 will surely be at sunset.

Senator Lamontagne moved the previous question.
Adopted.

Amendment to HB 442

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to the commission and tax on running and harness horse races and relative to the sire stakes program.

Amend the bill by striking out all after section 3 and inserting in place thereof the following:

4 Tax Amended, Sire Stakes Funding. Amend RSA 284:23, II (supp) as amended by striking out said paragraph and inserting in place thereof the following:

II. (a) Each person, association or corporation licensed to conduct a harness horse race or a harness horse race meet under this chapter shall pay to the state treasurer a sum equal to $5\frac{1}{2}$ percent of so much of the total contributions to all win, place and show pari-mutuel pools conducted or made at any harness horse race or harness horse race meet licensed hereunder as does not exceed \$400,000; $6\frac{3}{4}$ percent of so much thereof as exceeds \$400,000 but does not exceed \$450,000; $7\frac{1}{4}$ percent of so much thereof as exceeds \$450,000 but does not exceed \$500,000; $7\frac{3}{4}$ percent of so much thereof as exceeds \$500,000 but does not exceed \$550,000; $8\frac{1}{4}$ percent of so

much thereof as exceeds \$550,000 but does not exceed \$600,000; $8\frac{3}{4}$ percent of so much thereof as exceeds \$600,000 but does not exceed \$650,000; and $9\frac{1}{2}$ percent of all over \$650,000, and a sum of money equal to $8\frac{1}{4}$ percent of the total contributions to all other pari-mutuel pools conducted, made or sold at any such race or meet licensed hereunder.

(b) Of the amount so paid to the state treasurer under subparagraph (a) a sum equal to $\frac{1}{4}$ of one percent shall be expended for the promotion of agriculture in the state under the direction of the commissioner of agriculture, the sum of \$250,000 per fiscal year shall be deposited in the sire stakes fund established by RSA 426-A:5 and the balance shall be distributed according to RSA 284:2.

5 Tax Amended, Sire Stakes Funding. Amend RSA 284:23, II (supp) as amended by striking out said paragraph and inserting in place thereof the following:

II. (a) Each person, association or corporation licensed to conduct a harness horse race or a harness horse race meet under this chapter shall pay to the state treasurer a sum equal to $5\frac{1}{2}$ percent of so much of the total contributions to all win, place and show pari-mutuel pools conducted or made at any harness horse race or harness horse race meet licensed hereunder as does not exceed \$400,000; $6\frac{3}{4}$ percent of so much thereof as exceeds \$400,000 but does not exceed \$450,000; $7\frac{1}{4}$ percent of so much thereof as exceeds \$450,000 but does not exceed \$500,000; $7\frac{3}{4}$ percent of so much thereof as exceeds \$500,000 but does not exceed \$550,000; $8\frac{1}{4}$ percent of so much thereof as exceeds \$550,000 but does not exceed \$600,000; $8\frac{3}{4}$ percent of so much thereof as exceeds \$600,000 but does not exceed \$650,000; and $9\frac{1}{2}$ percent of all over \$650,000, and a sum of money equal to $8\frac{1}{4}$ percent of the total contributions to all other pari-mutuel pools conducted, made or sold at any such race or meet licensed hereunder.

(b) Of the amount so paid to the state treasurer under subparagraph (a) a sum equal to $\frac{1}{4}$ of one percent shall be expended for the promotion of agriculture in the state under the direction of the commissioner of agriculture, the sum of \$250,000 per fiscal year shall be deposited in the sire stakes fund established by RSA 426-A:5 and the balance shall be distributed according to RSA 284:2.

6 Repeal. 1976, 52:6 relative to the tax on harness horse race or meet is hereby repealed.

7 Repeal. 1976, 52:7 relative to the tax on harness horse race or meet is hereby repealed.

8 Effective Date.

I. Sections 1, 2, 3, 4, 6 and 7 of this act shall take effect upon its passage.

II. Section 5 of this act shall take effect July 1, 1978.

Senator Downing requested a roll call. Seconded by Senator Fennelly.

The following senators voted yea: Lamontagne, Poulsen, Smith, Bradley, Bergeron, Saggiotes, Monier, Trowbridge, Rock, McLaughlin, Hancock, Sanborn, Provost, Brown.

The following Senators voted nay: Keeney, Healy, Bossie, Fennelly, Downing, Preston, Foley.

14 yeas 7 nays

Amendment adopted. Ordered to third reading.

Senator Preston moved to take HB 315 from the table.

Division vote: 7 senators voted yea. 11 senators voted nay.
Motion failed.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 285-302 and CACR 25 and 26 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 285, relative to the accelerated Federal-Aid highway construction program. (Brown of Dist. 19—To Capital Budget)

SB 286, revising the pharmacy laws. (Brown of Dist. 19—To Executive Departments, Municipal and County Government)

SB 287, amending the state operating budget and making an appropriation therefor. (Brown of Dist. 19—To Finance)

SB 288, relative to nursing home administrators. (Poulsen of Dist. 2—To Public Institutions)

SB 289, relative to the issuance of licenses to operators of golf, indoor tennis, racquet and curling clubs. (Downing of Dist. 22; Rep. French of Belknap Dist. 1—To Ways and Means)

SB 290, relative to the state library acting in an advisory capacity to state institutional libraries. (Smith of Dist. 3; Keeney of Dist. 14—To Education)

SB 291, permitting a local option to adopt property tax exemption for property improvements and rehabilitation. (Keeney of Dist. 14—To Executive Departments, Municipal and County Government)

SB 292, relative to neglected and delinquent children. (Foley of Dist. 24; Smith of Dist. 3—To Judiciary)

SB 293, relative to wood processing mills. (Poulsen of Dist. 2; Rep. Johnson of Cheshire Dist. 3—To Administrative Affairs)

SB 294, establishing minimum standards for energy conservation in public buildings. (Brown of Dist. 19—To Energy and Consumer Affairs)

SB 295, relative to sexual offenses against minors within the state. (Preston of Dist. 23—To Judiciary)

SB 296, relative to the expenses of the division of municipal accounting in the performance of its audit functions. (Foley of Dist. 24—To Executive Departments, Municipal and County Government)

SB 297, establishing a unified public school system for the state. (Jacobson of Dist. 7—To Education)

SB 298, abolishing county government and transferring its functions to appropriate state or local governments. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

SB 299, authorizing the establishment of municipal development districts. (Hancock of Dist. 15—To Executive Departments, Municipal and County Government)

SB 300, relative to the registration of unauthorized dams. (Keeney of Dist. 14; Hancock of Dist. 15; Foley of Dist. 24; Bradley of Dist. 5—To Environment)

SB 301, relative to the qualifications of planning board

members. (Brown of Dist. 19; Rock of Dist. 12—To Executive Departments, Municipal and County Government)

SB 302, relative to the time for completing improvements of subdivisions for vesting rights thereafter. (Brown of Dist. 19; Rock of Dist. 12; Monier of Dist. 9—To Executive Departments, Municipal and County Government)

CACR 25, Relating To: The Executive Council. Providing That: The Executive Council be Abolished and its Powers to Confirm Various Appointments be Vested in the Senate. (Bossie of Dist. 20; Provost of Dist. 18; Rep. Marcoux of Hillsborough Dist. 31; Rep. Taylor of Grafton Dist. 9—To Executive Departments, Municipal and County Government)

CACR 26, Relating To: County Officers. Providing That: The Office of County Treasurer, County Attorney and Sheriff be Abolished. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in honor of National Secretary's Day until Thursday, April 28, at 1:00 p.m.

Adopted.

LATE SESSION Third Reading and Final Passage

HB 263, relative to the emergency generator at the state prison.

SB 164, to amend the charter of St. Mary's-in-the-Mountains.

HB 569, amending the charter of Coe-Brown Northwood Academy.

HB 275, relative to the membership of the legislative utility consumers' council and expanding the council's jurisdiction.

SB 183, the establishment of village districts.

SB 156, relating to the director of divisions in the department of resources and economic development.

SB 151, establishing the New Hampshire crime commission.

SB 112, authorizing payment to the city of Concord for use of solid waste disposal facilities by the state.

SB 85, relative to the authority to levy tolls on the eastern New Hampshire turnpike, the central New Hampshire turnpike, and the New Hampshire turnpike system.

SB 169, relative to parking permits for handicapped persons.

SB 170, relative to certain free licenses for all totally and permanently disabled veterans, if disabled while on active duty from a service connected disability.

HB 174, increasing the fee for motorcycle operator's license to \$12 and providing an effective period for such licenses of 4 years.

HB 361, relative to the penalty provisions for violations of statutes and rules pertaining to aeronautics.

HB 430, authorizing dealers to issue temporary plates for 20 days.

SB 176, to amend the law relative to taxation on legacies and successions.

HB 442, relative to the commission and tax on running and harness horse races and relative to the sire stakes program.

Adopted.

Senator Keeney moved to adjourn at 5:35 p.m.

Adopted.

Thursday, April 28

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, as we are all actors upon the stage of life, give unto us we pray the right cue as we each take our positions upon this state scene—expected to do our best, well aware that the people of this state are earnestly watching every move in each scene of our sessions.

Help us good Lord to perform in a manner that thou has set up for us.

Amen

Senator Preston led the Pledge of Allegiance.

Senator Foley was away on Senate business and was excused from the session.

Senator Blaisdell was away on business and was excused for the week.

INTRODUCTION OF SENATE BILLS

Senator Poulsen moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 303-312 shall be by this resolution read a first and second time by the therein listed titles laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 303, establishing a department of corrections merging therein the state prison, the youth development center, the department of probation, and the board and department of parole. (Sanborn of Dist. 17—To Executive Departments, Municipal and County Government)

SB 304, establishing the position of senior adult recreation program specialist and making an appropriation therefor. (Blaisdell of Dist. 10—To Finance)

SB 305, imposing a 5 year moratorium on the issuance of horse and dog racing licenses. (Blaisdell of Dist. 10—To Ways and Means)

SB 306, authorizing the governor to enter into a contract with schools of dental medicine to guarantee openings for

qualified New Hampshire students and making an appropriation therefor. (Blaisdell of Dist. 10—To Education)

SB 307, relative to deceased funeral directors. (Blaisdell of Dist. 10—To Public Institutions)

SB 308, including stairway inclined lifts and chair devices within the statutory definition of elevators. (Blaisdell of Dist. 10—To Public Institutions)

SB 309, providing for the stamping and sale of skins. (Blaisdell of Dist. 10—To Recreation and Development)

SB 310, which changes certain laws which refer to game animals, game birds, fur-bearers and fish to the general category of wildlife. (Blaisdell of Dist. 10—To Recreation and Development)

SB 311, relative to prepayment of resident taxes. (Bradley of Dist. 5; Rep. Aldrich of Grafton Dist. 14; Rep. Duhaime of Grafton Dist. 14; Rep. Hough of Grafton Dist. 14; Rep. Logan of Grafton Dist. 14; Rep. Townsend of Grafton Dist. 14—To Ways and Means)

SB 312, prohibiting the taking of game birds with a rifle or pistol. (Blaisdell of Dist. 10—To Recreation and Development)

Senator Fennelly spoke under rule No. 44.

Sen. FENNELLY: I'd like at this time to make some comments on what happened to HB 442 yesterday. It is going over to the House and it is my belief it will be amended, reamended and probably if and when we get it back we won't recognize it and I would like to remind the Senators that voted for the amendment that we are going to lose a million dollars, and when different agencies come before senate finance for different appropriations, education, Laconia State School, I wonder what they are going to say "oh, if we only had another million dollars" and I say it now before this Senate, that we yesterday threw away one million dollars and eventually its going to come back to haunt us.

Sen. ROCK: Senator, your words would indicate that the majority of this Senate acted in bad faith, without good conscience and irresponsibly, would you take my word for it that I voted in good faith, good conscience for what I felt was the best interest of the State of New Hampshire to provide that money and that my belief is the remarks might well be di-

rected to the members of the House to see if they would act responsibly?

Sen. FENNELLY: I think, Senator Rock, that you did act in good faith on your belief; but the testimony you were there in committee, testimony on the floor of the Senate yesterday, what was said, I still say it and I say it now that we made a major mistake yesterday amending that bill. As in dire need of revenue in this State to send it over to the House and the indication from what I hear it's going to be reamended and if we get it back here I don't think we are going to recognize the bill.

Sen. ROCK: What I hear you saying, Senator, that if this body in it's wisdom was not willing to capitulate to a mandate from the House of Representatives that unless we accept their legislation without changing a period, without crossing a tee, without making the value judgments that we were elected to make, we are not acting responsibly and we must accept whatever they send in the form that they send it or we are not doing our job, is that what your saying, Senator?

Sen. FENNELLY: I'm saying that in the House testimony, and the Senate testimony, in Ways & Means, the bill should have passed, the House wanted it passed, everybody wanted it passed as it. I think sending the bill to Senate Finance was a mistake, that was my own personal opinion and I'm not casting shadows on anybody or any committee. What I'm saying also if everything has to go to Senate Finance that has appropriations—nonappropriations, another feeling I have is why the Ways & Means committee is there? Let Senate Finance handle everything.

Sen. ROCK: I don't want to quarrel with your last statement, Senator, so I won't get into that. What I'm saying is you made the statement everybody wanted the bill passed as it was without amendment, and I'll show you the roll call that said 14 Senators wanted it changed.

Sen. FENNELLY: I am very well aware of what the roll call vote was, Senator Rock, but I'm saying my personal opinion is that the Senate yesterday made a mistake that will probably cost us a million dollars. I hope I am wrong. I hope that the bill does come back and the House does comply with the amendment I would be very very happy but I don't think they are.

Sen. ROCK: If the House complies with the amendment today, Senator, we haven't lost a penny have we?

Sen. FENNELLY: I would be very happy if they would comply with the amendment today, Senator Rock.

COMMITTEE REPORTS

SB 189, establishing a coastal resources management program and making an appropriation therefor. Ought to pass with the following recommendation:

It is the feeling of all members of the committee that this bill should be passed into the House because of the legislative deadline. We do so with a concern and a hope that the House will provide for more public hearings to solicit local input from the communities most effected by this legislation, particularly the primary zone areas where the legislation has the greatest impact. Senator Preston for the committee.

Sen. PRESTON: The committee recommendation, Mr. President, it's the feeling of all the members of the committee that this bill should be passed into the House because of the legislative deadline. We do so with a concern and a hope that the House will provide for more public hearings to solicit local input from the communities most effected by this legislation, particularly the primary zone areas where the legislation has the greatest impact.

Sen. HANCOCK: Mr. President, members of the Senate, I am a co-sponsor of this bill and I just want to put the Senate on notice that I'm going to have three minor amendments which can be discussed either with the Finance Committee or when it comes back from the Finance Committee. We had the hearing on the bill yesterday at noon. I did take the suggested amendments to the Legislative Services about 2:00, the haven't prepared them so I just want to serve notice that I will be presenting these to the Finance Committee or when the Finance Committee report comes back.

Sen. MONIER: I'd like to support that. Senator Hancock had just asked me a couple of minutes ago of making it a Special Order, I appreciate not making it a Special Order because it would only delay it for the time being in going down to Finance. We are aware in the committee of what the amendments are, we can discuss them on the floor at that time and as long as we can get it into process and moving and I support the move.

Referred to Finance.

SB 132, relative to the compensation and benefits of certain permanent policemen in case of death or disability. Ought to pass with amendment. Senator Sanborn for the committee.

Amendment to **SB 132**

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Temporary Work for Another Department; Retirement Benefits. Amend RSA 103 by inserting after section 15 the following new section:

103:15-a Temporary Assignment to Another Department; Compensation. Any permanent policeman accepting the provisions of this chapter who is, at the time of his death or disability, working for some other than his own police department or a component of the state or federal government on a temporary assignment shall be compensated as though he was working for his own department and shall receive the same benefits that would have accrued to him if he had been working for his own department, provided that the policeman was working with the knowledge and approval of his commanding officer, police chief, selectmen, or city or town manager. This section shall apply to any permanent policeman working under cover, on emergency duty or in a training capacity. In the event such temporary assignment should exceed 10 working days, it shall be the obligation of the receiving agency of the assignee to insure that all member and employer contributions as required by RSA 103 are properly transmitted to the New Hampshire retirement system.

2 Temporary Work for Another Department; Retirement Benefits. Amend RSA 100-A:3 by inserting after paragraph VI the following new paragraph:

VII. Temporary Assignment to Another Department; Compensation. Any permanent policeman in service who is, at the time of his death or disability, working for some other than his own police department or a component of the state or federal government on a temporary assignment shall be compensated as though he was working for his own department and shall receive the same benefits that would have accrued to him if he had been working for his own department, provided that the

policeman was working with the knowledge and approval of his commanding officer, police chief, selectmen, or city or town manager. This section shall apply to any permanent policeman working under cover, on emergency duty or in a training capacity. In the event such temporary assignment should exceed 10 working days, it shall be the obligation of the receiving agency of the assignee to insure that all member and employer contributions as required by RSA 100-A are properly transmitted to the New Hampshire retirement system.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. SANBORN: I believe, Mr. President, that the amendment basically adds section two, temporary work for another department, relative to the retirement benefits and so forth that the police are entitled to. Basically the bill in itself there is no provision in the RSA, as of right now, when a permanent policeman we will say of Concord or of Manchester or any other town or city that may have a police department and lends these police to another town, city or community, there is no provision that this man's retirement or disability in case he is injured or killed in the line of duty is nothing, his retirement or disability is covered, and basically this bill provides that the home police department will still see that he is covered, maintain his coverage for retirement or disability and so forth and that is the prime thrust of this bill. There was no dissent whatsoever in the committee. There were several chiefs of police and so forth. Concord was one, that appeared before us, and highly favored this bill and then when one of their police go to Loudon, let's say, to help cover in the upcoming motorcycle races they would know that person's retirement or disability covered him during that period when he was out of the actual bounds of the City of Concord. We urge its adoption.

Amendment adopted. Ordered to third reading.

SB 113, providing for a master plan for state land use in the city of Concord. Ought to pass with amendment. Senator Rock for the committee.

Amendment to **SB 113**

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Assistance in Preparation. The office space study committee is authorized to retain such professional planning assistance as may be necessary in the preparation of the master plan, at a cost not to exceed \$50,000; which shall be charged against the appropriation for land use review contained in 1975, 504:1, XVII, as amended by 1976, 37:6. The city of Concord shall also contribute in-kind assistance, consisting of professional, technical and supportive services and related overhead items to a maximum value of \$15,000. The city's accounting for such in-kind assistance, attested as correct by the city manager of Concord shall be accepted by the committee.

Sen. ROCK: Thank you, Mr. President, if the members of the Senate will turn to page 18 they will find the amendment to **SB 113** listed. What the amendment does is put into this bill a soft match from the City of Concord. The original bill **SB 115** called for the planning to be done out of the appropriation for land use review in the 1975 statutes. There is no new money contained in this bill. It is money that has already been appropriated and that will be used for this purpose. What the amendment does is to require that there be a value in the amount of \$15,000 soft match for overhead items provided by the City of Concord. The cities accounting for assistance would be done by the City Manager and he accepted by the committee. The bill itself is, of course, self explanatory. It authorizes the Office Space Study Committee to undertake preparation for the location of state facilities within the city through the year two thousand.

Sen. MONIER: I am going to vote for this, as we did when we brought it out of committee. I think it's a good bill. I would like the record to show that we are going to be faced with this kind of a problem with all other state properties outside the City of Concord at some future date. This is just for the City of Concord.

Sen. HANCOCK: Mr. President, members of the Senate we have discussed the proposed amendment with the City of Concord and they concur in it's adoption.

Amendment adopted. Ordered to third reading.

SB 130, relative to transfers of classification in the retirement system. Ought to pass with amendment. Senator Smith for the committee.

Amendment to SB 130

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

I Retirement; Transfers from Group I to Group II. Amend RSA 100-A:18, IV (supp) as inserted by 1974, 33:10 by striking out said paragraph and inserting in place thereof the following:

IV. Any person who is a member of a predecessor retirement system or who is a group I member of this system and who is authorized to transfer to become a group II member of this system may, before he is so transferred, pay all the payments required by paragraph II and in addition a sum sufficient as actuarially determined to reimburse the system for any unfunded accrued liability resulting from such transfer or make no payment and receive an actuarial reduction in his retirement allowance.

V. Notwithstanding any other provision of law, any person who is a member of the retirement system and whose membership group classification is changed on account of his accepting office or employment which requires his participation in such other classification and who, as of the date of such change in classification, would be entitled to a vested deferred retirement allowance under RSA 100-A:10 based on his former classification, shall contribute thereafter at the rate payable under his new classification based on his age on the date of his original membership in the retirement system. If such member elects not to make such payments as are or would be required under paragraphs II and IV above, then upon retirement or termination of service, his creditable service rendered prior to the date of his change of classification shall be recognized solely for the purpose of determining his eligibility for benefits under his new classification and he shall be entitled to a retirement allowance based on his creditable service and earnable compensation subsequent to his change of classification in accordance with the provisions of the re-

tirement system pertaining to his new classification, plus the vested deferred retirement allowance he had accrued for his period of creditable service in his former classification. Notwithstanding the provisions of RSA 100-A:10, no vested deferred retirement allowance shall commence while such member is in active service.

2 Effective Date. This act shall take effect upon its passage.

Sen. SMITH: Mr. President, the amendment is the bill and it's found on page 18 and 19 of today's calendar. What this bill does is to allow an employee of the State or of a subdivision who is entitled to come into group I or group II because of his change of employment to either pay into the other system from group I to group II or to take an actuarial deduction in his retirement. The amendment also states that no vested deferred retirement allowance shall commence while such a member is in active service so that if a person works for a period of years as a group I retirement changes his job and comes under group II he can either pay in what is needed or he can take this actuarial reduction or adjustment to prorate between the two systems and also specifies that he cannot receive that during his term of employment. I hope the Senate will go along with the amendment and the bill.

Amendment adopted. Ordered to third reading.

SB 172, relative to parental responsibility. Ought to pass with amendment.

Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, the amendment is on the bottom of page 19 and over onto page 20. The amendment does basically three things to the bill. The bill, as you can see, provides a variety of different things which go to the question of parents responsibility for their childrens delinquent acts or wrongful acts. The first thing the amendment does is to strike out section three. Now section three of the bill, which you will find on page 3 of the bill, adds the second sentence to that section which says that any parent or guardian having custody or control of a child who has failed to exercise reasonable deligence in the control of the child prevent him from becoming guilty of juvenile delinquency shall be guilty of a misdemeanor. So this section III would make it a crime for you

not to use reasonable diligence to prevent your child from becoming a juvenile delinquent. The committee's feeling is that we already have that first sentence there where you can see on the books which makes a parent guilty of a misdemeanor if he contributes knowingly or willfully in any way to the child's delinquency and the committee felt that was too broad a standard to make parents criminals, who are lousy parents and raise their kids. In fact, it's my own feeling that almost by definition every parent of a juvenile delinquent would be guilty of a crime under that sentence. Well, that's the first thing the amendment does. Section 4 is also stricken. Section 4 is tied in with section 3 and really adds nothing substantive. The second thing the amendment does is strike section 6 of the bill. Section 6 is a provision which makes it a crime for the parent whose child becomes a habitual truant and here again there is already an obligation on the part of the parents to try to send their kids to school, and the committee felt that you could not deal with this in the criminal law just because a kid is a habitual truant. That is not an appropriate thing to deal with under the criminal law. The third thing the amendment does is to rewrite the section 8 of the bill which is on page 7, and that simply narrows that section a little bit. The section, as written in the original bill, covers any unlawful injuries which are caused by minors. The amendment, the amended section which you can read there on page 20 narrows this down so that it only applies to malicious and willful injuries caused by children, and this would make parents responsible for malicious and willful injuries caused by their children and this would make parents responsible for their children's malicious and willful injuries. In summary, I think that the committee went as far as it felt it would go in attempting to meet what is considered to be the legitimate purposes of the sponsor of the bill, but narrowed it down in these three instances, where they felt the bill was simply too broad and would be unworkable.

Sen. ROCK: Senator, I heard you begin your remarks by saying that the amendments did three things. I tend to agree with you that the amendment did do three things. Would you believe that the three things I think it did are emasculate the bill, gut the bill, and render it impotent?

Sen. BRADLEY: I believe that you might feel that way but I don't think that is a totally fair characterization of what's left of the bill, because I think the bill does in fact still have several

of the things that I heard the sponsors are trying to accomplish.

Sen. MONIER: Did anybody appear before the committee in opposition to the bill?

Sen. BRADLEY: Well, this is one day when I don't have my notes. I don't recall any.

Sen. MONIER: Would you believe then, perhaps I could refresh your memory, that no one did?

Sen. BRADLEY: I think I would certainly believe that if you remember it that way.

Sen. MONIER: Are you aware that in the last session what was then known as **SB 226**, this same bill in part, was passed by this Senate, heard by your committee which you were the chairman and which the same sections you are deleting this time you had no objections to the last time although you did try to attempt to amend other portions of it and the Senate rejected them. For example this is **SB 228** of the last session but in this case it was paragraph one "contribution to delinquency—any parent or guardian or person having custody or control of a child or anyone else who should knowingly, willingly encourage a cause shall be guilty of a misdemeanor that same paragraph same section except now it's numbered three in this years bill?

Sen. BRADLEY: To respond to that, that what you just read has been the law, is the law, and isn't changed by this bill and I have no objection to saying that if a parent or guardian knowingly or willfully contributes to the delinquency of the minor that they are guilty of a criminal offense. What I objected to in this bill, and I would be very surprised to learn I didn't object to it any earlier, is the thing that says the parent who is simply not diligent in controlling the child whether it's through negligence, oversight, or inaptitude will be a criminal. I don't believe I've ever conscientiously supported such a provision.

Sen. MONIER: I think you will find it was in there in the other bill and let me procede to section 4 which you in talking about your amendment of striking out section 4 in which you stated was really part of section three and therefore since you omitted one you would omit the other. The same thing was in the bill a year ago only it was called paragraph two and it reads exactly the same. Court Orders—The court upon complaint issued. . . . and so forth and so on, and as I said at that time it was heard before your committee and brought before

the Senate the amendment that was offered at that time did not include either one of these two things. I'm just wondering if you could explain to my why all of a sudden now these are concerns to you.

Sen. BRADLEY: You understand, don't you, that your section 4 is almost entirely the present law. The only thing being added to section 4 is a reference to the previous section which is 169:32 and therefore if your not going to amend section 32 of chapter 169 it would not make sense to have that reference in 169:34. The total thrust however of 169:34 is already on the books and the committee is not changing that policy in the law.

Sen. PRESTON: Senator Bradley, just a question on the declaration of policy which I've never seen before. Is that an attempt to establish legislative intent or what is it's purpose?

Sen. BRADLEY: The way I read section 7, and incidently the committee supports that statement, that is really something which ties in with section 8 in the original bill. In other words it's going to this business of the parents being responsible in civil damages or the malicious acts, willful, vandalism, that sort of thing of their children and section 7 simply supports that new provision in the law.

Sen. MONIER: Mr. President, I rise in opposition to the amendment. Now I do this reluctantly because I think that the amendment as printed, and I refer the members to the Journal just for one moment for what has now become, under the amendment section, the last paragraph which is about torts and amendment. I would accept the language of that amendment. There would be no problem with it because I think perhaps it may be even tighter that what is in the original bill and therefore I have no objections to the amendment as printed in here, what I object to is the omission of the sections of three and four in term and therefore I have to vote against the amendment because I have no way of splitting the question on that particular thing that I know if, and I don't think the amendment is offered for the last section entitled action against parents for minors and vandalism and tort is that much better where we have to defeat the bill in order to do it. I would also accept a deletion of section 6 for habitual truancy but the one thing I keep insisting upon is that nobody appeared against this bill. This may have been the committee. Senator Bradley was the one who was against the bill and as a chairman he was not appearing as a witness but it was obvious

from his questionings and I don't know as I blame him because his philosophy is such that he doesn't agree with it. But sections three and four as they are in the bill is the core of the bill. It is to attempt to make a matter of record that a parent is responsible, it will be a misdemeanor if he does not meet that responsibility to define those terms. They were written, I might add, by Judge Arthur Marx three years ago. They were in the other bill, as I stated, two years ago which the Senate passed. They are in this bill. There may be a renumber of them because we also added some other things to the bill. I really think that there is a consensus by those that are a member of the legal profession that this is not the way to go and that may be and I respect their profession. All I can say to you is that the way in which we now do it has not assisted the problem. I think it is time that not society to begin to start raising the kids but that the parents stand up and be accountable for the action of their children. Before somebody asks me, therefore if a parent has a juvenile charge what I expect them to do, my answer is very simple I don't expect them to turn them over to me and expect me to pay the bills for the vandalism etc. Find some other way.

Sen. TROWBRIDGE: Senator Monier, I believe you stated that this is the second or third time we've seen this legislation come before the Senate is that correct?

Sen. MONIER: That is correct.

Sen. TROWBRIDGE: Would you not then say that maybe a consensus that this is not only lawyers but of the House members that this is not the way they are going and that you failed to pass the bill in it's present form three times?

Sen. MONIER: Senator Trowbridge, I can't speak for the House. Perhaps you have better connections.

Sen. TROWBRIDGE: Was it not obvious from the vote in the House that the consensus was not with your bill?

Sen. MONIER: It was rather obvious that the consensus of the Senate was, and I want to give them the opportunity to have it again.

Sen. TROWBRIDGE: What I'm trying to bring out is maybe at some point rather than banging our heads against the wall, maybe sometimes you might take the advice of Senator Bradley as to how it might be made possible to pass the bill at least in some form instead of having nothing?

Sen. MONIER: Are you saying, therefore, that the Judiciary and the House will accept it if we accept the

amendments of Senator Bradley? Do you want me to believe that?

Sen. TROWBRIDGE: What I'm asking you further is don't you believe that some concession to the people who are concerned in this area might be a wise idea rather than just always having it your way, wouldn't that be a little bit better?

Sen. MONIER: My only response to that, Senator, is that I don't consider it to be my way. I consider it to be a gutting of what we are trying to accomplish.

Sen. BRADLEY: Senator Monier, you do agree don't you that sections one and two remain in tact in the bill and sections one and two which will enable the news media to make public the names and addresses of repeated delinquents meaning for the second time that that is a significant change in the existing law of this state?

Sen. MONIER: I do.

Sen. BRADLEY: Do you then agree with Senator Rock that we have entirely emasculated the bill?

Sen. MONIER: I think I would agree with all three statements of him, that the purpose of the amendment, the amendments action emasculates what is really a separate basic problem as we, some of us, see it with respect to the values and accreditation of juveniles and that is that the parents would be held responsible.

Sen. BRADLEY: To boil this down to it's simplest terms, isn't it true that really all the amendment does is to say that the parent whose child becomes a juvenile delinquent or who is a habitual truant who is not otherwise found to be blameworthy should not be held to be a criminal, isn't that all this amendment does?

Sen. MONIER: I can't answer that, but I can say this: I think that I have enough trust in our judges and courts to where they can find that as well without having it out of the bill.

Sen. HEALY: I rise in opposition to this bill, with the amendment and all. I think perhaps the intent of the bill in looking at the sponsors is well meaning. I think they mean well. I am a member of the news media and I have been for very very many years and as I look over the list of sponsors I see there is one other, Senator Rock, who is a member of the news media. My question is this. It says the current law forbids such a publication or broadcast. I agree the current law does prohibit such publication of names and so forth of

juveniles and phases like this where juveniles become involved in vandalism and many other acts that create hardships to the families, and create embarrassment of the parents of such children. I can't see, for the life of me, why this bill is necessary when a judge believe it or not they give power to a district court judge which is above and beyond my thinking and they allow a district court judge to decide that a kid's name can be used in the press if they think it is a worthy thing to do and most of the time the newspapers will use a name if the district court judge permit them to do it. So, therefore, I think we are casting responsibility of the judicial again on to the people asking that we in the State and in the Senate here come up with a bill to have the names of children and parents and so forth printed in the news media or come out on the radio of children most cases where vandalism and other things are a contributing factor to what they are doing wrong. There is not a city in the State of New Hampshire where vandalism has been more current than in Manchester, New Hampshire. We had some tremendous cases, bad cases ran into many thousands of dollars and the district court judges, believe it or not, gave permission to use the names of these kids when they were apprehended to be run in the newspaper. Why is this bill so necessary when the papers do not have to use the names? I would hesitate to see somebodys name, some adult who is innocent to all this business. People work night and day. Some families the wife has to work nights or days while the husband has to work another shift and they come home and they meet each other once in a while especially on the weekend. They have to do this to meet the current bills today and a lot of foolish money created to raise to give pensions to certain people who I'm not going to admit because everybody knows who I'm talking about. I think this is a usless piece of legislation and a waste of expenditure on the part of the State Senate to even go ahead and have this bill printed. The newspapers will print the name if they want to, if it is legitimate use by the Senate and House but after all there is no necessity for it because the judges are empowered to say go ahead and print the name of that juvenile and that is enough.

Sen. BRADLEY: Indeed there was opposition at the hearing which I had forgotten about. The representative from the Legal Assistance did appear in opposition to it, and I'd simply say in addition to that I would hate to think we've established

a policy that whenever someone didn't appear in opposition it meant that we had to pass it.

Division vote: 8 senators voted yea. 11 senators voted nay.
Amendment failed.

Question of ordering **SB 172** to third reading in the late session.

Division vote. 13 senators voted yea. 6 senators voted nay.
Adopted. Ordered to third reading.

SB 140, relative to the liability of landowners. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, this is a bill sponsored by Senator Smith, Poulsen, Preston and a Representative. This bill would basically extend a chapter in the statutes to include the removal of fuel wood to exclude as a cause of action in case somebody is injured. The testimony we heard yesterday was all favorable to the bill and we heard from the Society for the Protection of New Hampshire Forests and also the Forest Owners Guild. I was concerned with the bill inasmuch as the supreme court had recently come down with a decision which might affect it, but after reviewing it, this is an exclusion and it sounds like it would be a good idea and it would exempt landowners from liability when people go on their property to remove fuelwood. This, of course, doesn't license anyone to remove the wood without the owner's permission.

Adopted. Ordered to third reading.

SB 141, prohibiting the use of minors in pornographic arts, pictures, displays and the sale or custody of any such material in the state. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, Senator Preston and Foley introduced this bill to prohibit the use of minors in pornographic arts, pictures, displays and the sale or custody of any such material in the state. This is an extension of the pornography act and it seems to be an appropriate extension in view of the fact that apparently a number of books and magazines are being sold in the state. We have no information that any of the pictures are being taken in the state but a number of them are being sold in the state and really is of no value to anyone

we can determine and although the committee is concerned with the rights under the constitution we see none of these rights as being protective about this sort of thing. So we would encourage the Senate to adopt the bill. We think it's a good bill. There was no opposition and Senator Preston made a very stirring presentation to the committee which deserves our commendations.

Adopted. Ordered to third reading.

SB 32, establishing a board of hearing aid specialists to license hearing aid specialists and making an appropriation therefor. Inexpedient to legislate. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the Senate, the committee had a very lengthy hearing on this bill and very few folks talked in favor of it. A very large group appeared in opposition to it. We tried to think of some way to amend this bill or revise it to make it so it would be agreeable with other people and be understanding on the desires and thoughts of the people present and found this was impossible to do. We also heard that there were several bills in the house on the same matter that seem more clearly defined. People seemed to agree there was no way our committee felt we could proceed with this bill in any form whatsoever and recommend at this time that the committee report be accepted.

Adopted.

SB 107, relative to non-confidentiality of proceedings of chiropractic review committee. Inexpedient to legislate. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, member of the Senate we again had a very lengthy hearing on the chiropractic bill this time. What in essence it's trying to say is, when they have their proceedings and review committee meetings and so forth they want them to be public information so it can be given out to all people concerned and also the people involved in it and there was a very large group of people that couldn't agree with each other whatsoever. One side was all in

favor and the other side was all against it, no way could we put the people together involved with chiropractors in the State of New Hampshire. It is the feeling of the committee that we didn't want to allow publication of whatever was said in the committee in confidence proceeding hearings that go on in the State of New Hampshire and committee voted unanimously that this bill be inexpedient. There was no way at all of getting together to communicate with each other and it makes it hard for the committee to try and put these things together. One group was all for and the other group all against it and we hope you go along with the committee recommendation.

Adopted.

SB 128, to include licensed pastoral counselors in the category of services authorized under minimum mental illness coverage under major medical and non-major medical accident and health insurance. Ought to pass. Senator Rock for the committee.

Sen. ROCK: I think one of the key issues in the acceptance of **SB 128** is exactly what is a pastoral counselor and how does one attain that degree of proficiency. I think we have to realize that we are talking about someone who has reached this plateau in the counseling field. We are not talking about necessarily the minister back at the parsonage. I'd like to quote part of the testimony of what the word pastoral counselor does and does not mean. "This does not refer to ministers, priests, rabbis, serving in churches and synagogues who carry out pastoral counseling as a normal part of their job." So if we could set that aside for a minute I'll tell you about the rabbi or priest or minister who would counsel with one of his parishners. It refers to a clergyman who has gone beyond the tradition, theological training and he specializes in the counseling field. Such persons must first have a doctoral degree or it's equivalent in the counseling field. He must have had considerable 250 hours of supervised fieldwork, clinical experience of their counseling work, and then beyond that he must have undergone their own psychotherapy sufficient to convince a committee of professional peers that their own problems are sufficiently resolved that they are unlikely to interfere with the effective functioning as therapists. I'm sure you've all heard the word a shrink. This is not a psychiatrist, it's not a

psychopath. A psychiatrist can give out medicines. He can give out perscriptions, drugs. A pastoral counselor cannot. I think you must also realize that this is a very limited field in New Hampshire. We are not talking about hundreds and hundreds of clergymen who would immediately become eligible for what this bill provides. There are a total of eight pastoral counselors licensed in the State of New Hampshire. There are no more at this time. We do have a licensing procedure, a person must go through all the steps in licensing before they are certified as a pastoral counselor. Now many and most of the private insurance companies are paying the claims put in by patients who are seeing pastoral counselors for this mental health. I think there is also another reason why some people might wish to go see a pastoral counselor before they'd go to a psychiatrist or psychologist, psychopath because that is the stigma that might be associated with visiting a psychiatrist. Where visiting a pastoral counselor indicates a less severe problem certainly but it also is dealing with someone who in their minds might be more socially acceptable to deal with regarding their problems. This again is paid by many insurance companies, visits to pastoral counselors. But if a person happens to come under BC/BS, Major Medical plans they are now saying that they are not honoring the claims, this bill would allow a person with the BC/BS coverage to be compensated for claims when they visit a partoral counselor. That is the quest of this bill.

Sen. BRADLEY: In view of the debate we had a year or so ago on minors receiving care from psychiatrists and psychologists and the implications I've had, what if the person seeking the counseling is under age and doing it without parental consent?

Sen. ROCK: I would assume they would come under the same limitations that are now in effect. That it was done without parental consent they could not be assessed for the charges.

Sen. TROWBRIDGE: I'm opposing this bill. I didn't go to the hearing and I should have and I'm just going to bring out another side that I worry about. I remember once when I got on the floor of the House when they started this centralized data processing commission and I said fellows, when you start down this road it will be a three million dollar agency. And here we have a situation where we've gone to quite a bit of trouble in the state and great expense to set up the community

mental health centers. We went to quite a bit of trouble last special session which was supposed to be the focus of the entire special session which was to add mental health coverage to blue cross-blue shield and thereby back through provider payments into the community mental health centers. Some of them are getting quite a bit of that third party payment for the services rendered by the community mental health centers and the community mental health centers now cover 80% of the people who have mental illness in this state. The cost effectiveness far out-weighting the N.H. hospital which of course is institutional. There may be only eight pastoral counselors now but once you say that you get BC/BS coverage for going to someone and I don't dispute what Senator Rock says about the licensing provision 250 hours is not a heck of a lot of time to say I've been in the clinical area. Did you know what those kind of things mean that I've been working at the day care center I've been working here and there. Now a great many people will be able to qualify as pastoral counselors and the reason there are only eight now is because nobody will pay for them. No one thinks they are worth it. I've got to admit my father was a minister. They would come to my father long before they would go to the psychiatrist not because he was necessarily good but because he was free. I've got to say I'm a little bit jaunticed in this area and I kind of feel that we are opening a door by putting third party payments behind this thing. I don't mind licensing pastoral counselors, I don't mind someone voluntarily paying pastoral counselor. That's fine. But to put these on a health provider system when we are already putting the health provider system behind so many other things. I think it's a duplication. I'm not going to make a motion to indefinitely postpone. I'm just going to vote against the bill.

Sen. ROCK: Senator let me quote to you from the testimony and then ask you a question. The testimony as presented before us by Dr. William Zeckhouser says "the pastoral counsel in the bill refers is similar in relation to the current clergyman as a psychiatrist is to a medical doctor". "To be a psychiatrist one must first complete medical school and then go beyond medical school and specialize in psychiatry. The pastoral counselor in the bill must first become a clergyman through the traditional education and then go beyond for special training in the field of counseling. The training includes courses in supervision collaboration with

psychiatrists, clinical psychologists, psychiatric social workers and other specially trained pastoral counselors. They then serve the public." My question is if I were a person who is troubled and I wanted to go to receive help in my troubles and Senator Poulsen was a psychiatrist and Senator Lamontagne was a psychologist and you were a pastoral counselor and I came to you for help and I said what is your fee and you said it's \$15 an hour and I said I have BC/BS and I'd really like to have you counsel me you would have to say I'm sorry you have to go see Senator Lamontagne because I can't get third party payments under blue cross although if you had continental insurance I could get payment. Do you think that's fair for me as a patient who wanted to come to you to be pushed off on to somebody else because these decisions had been made not to recognize the kind of training these people have had?

Sen. TROWBRIDGE: Senator Rock that is a long question and a lot in it. We now have on the staff of the state employees at least 75 people who are state employees who would qualify right now to be pastoral counselors. They will moonlight like crazy under this bill. The fact to the matter as you take the example that you have to become a minister first is wonderful but the parallel ends there. You become a minister and you don't get third party payments for being a minister so you take the logical extension off and he's like a minister whose gone beyond that training. o.k. fine. But if someone can go around and press the plastic in anytime that he wants to go to anything I think there is a point where you draw the line as to what your going to allow third party payments for. All I'm saying is your opening up a whole new door and then, we talked about the tolls yeaterday right, and when blue cross comes back and says here we are again paying out for pastoral counselors. I'm not saying your not justified. I'm just saying there is a line and I'm going on the other side of the line.

Sen. SANBORN: Senator it seems to me last regular session we had this bill in here establishing these pastoral counselors didn't we?

Sen. TROWBRIDGE: Yes it did.

Sen. SANBORN: And they were going to be peaceful men of the cloth that were just going out and counsel. I don't remember anything about they were going to be paid anything. I was reluctant on that bill I might add?

Sen. TROWBRIDGE: We joked about what sort of a home for the defraud was one of the things we were talking about.

I've seen a number of people and I know one of the persons who is a qualified licensed pastoral counselors. He is a very very nice person and I have nothing against him but I don't think for one minute, he has another job, he is not full time with a shingle out saying pastoral counsel, not that I've seen. So I agree with you in your question was that when we did this there was some way of at least having a handle on who can call himself a counselor and not have everybody and his brother. That I approved of. The idea of him going into the blue cross, blue shield I don't think ever came across my mind.

Sen. SANBORN: I was interested Senator when you said there were quite a few. I've got to agree with you probably there are in our institutions right now that the number of hours and so forth they can probably qualify and how soon would you expect that if they get something like this Blue Cross/Blue Shield paying for them that they are suddenly not satisfied with their 10, 12, 14 classification as state employment but now that pastoral counselors could be 25, 26, 27 classification.

Sen. TROWBRIDGE: Right. Clinical psychologists all those we have any number of those positions that say that in our job descriptions. Social Worker II, Social Worker Psychologist II, you've heard this all the time right. All those people would be right down the alley.

Senator Brown moved that **SB 128** be indefinitely postponed.

Sen. BROWN: I was a member of this senate in 1975. I supported the bill to license pastoral counselors and as you recall those of you who were here, I had a minister from my district who came up here to see me and he was very much in favor of this bill. In our conversations together I stated how the general court pertaining to licensing, monopolies and monetary gains and what this could lead to in the future. He lead me to believe at that time that his group, which he is a member of, that this was not the intent at that time. Now I see the bill and I agree with Senator Trowbridge completely that this is opening pandora's box for the monetary value of the counselors.

Division vote: 11 senators voted yea. 11 senators voted nay.

